

C: Lytelton **tenures in** **Englyſhe.**



Fee symple.

**Estate of
enheritaunce,**

Fe tayle.

Generall.

**Espeyall
att possibi
lite of issue**

**Att the
comen
lawe.**

Curtesy

**Franke tene of Englande
ment only. Dowry.**

**Frank
tene-
ment.**

**Terme of lyfe
Terme of others
lyfe.**

**pos-
sely-
on of**

**After the
custome.**

**Also note here that franke tene
mēt after the custome/ may be de-
wyded in lyke maner as frank te-
nement by the comon lawe is.**

Terme of yeres.

Beall.

**Warde of lande,
To holde at wyl.**

Chatell.

**Personall. All good
des moua-
bles.**





Tenant in fee simple is
he which hath landes
or tenementes to hold
to hym and to his hey
res for ever. And it is
called in latyn (feodum

tail.

symplex) for feodum is called inhery- what is
taunce/ and symplex is as much to say fee sim
as lawfull or pure/ and so feodum sim
pler is as muche to saye as lawfull or ple.

pure inherytaunce. 3. or if a man wyl
purchase landes or tenementes in fee
symple/it behoueth hym to haue these
wordes in hys purchase/ to haue and
to holde vnto hym and to hys heyes/
for these wordes his heyes make the
estate of inherytaunce. Anno. xv. H.
vi. folio. xxxviii.

¶ For yf any man purchase landes by
these wordes / to haue and to holde to
hym for ever / or by suche wordes to
haue and to holde to hym and to hys
assignes for euer. In these. it. cases he
hath none estate but for terme of lyfe /
for that that he taketh these wordes /
his heyes/whiche wordes only make
the estate of inherytaunce / in all feof-

mentes

mentes

mentes, and graunces. **¶**

Ca. i. **¶** And if a man purchaseth landes in fee
 symple & dye without yssue/ every one
 that is bys nexte cosyn collaterall of
 the hole blood/ howe farre so euer that
 he be from him in degre/ may inherite
 and haue the same lande / as heyre to
 hym. But yf there be father and sonne/
 and the father hath a brother/ whiche
 is vncle vnto the son/ and the son pur-
 chaseth lande in fee symple/ and dyeth
 without yssue luyng the father/ the
 vncle shall haue the lande/ as heyre vn-
 to the sonne/ and nat the father (yet
 the father is more nye of blood vnto
 the sonne) for that yf there is a grounde
 in lawe/ that inherytaunce may lyny-
 ally descende/ but nat lynyally ascende
 yet if the son in suche case dye without
 yssue/ and bys vncle entrethe in to the
 landes as heyre vnto the son/ so as he
 ought by the lawe/ & after yf the vncle
 decease without yssue luyng the father
 than shall the father haue the lande as
 heyre vnto the vncle/ and nat heyre vn-
 to the son/ for that that he cometh vn-
 to the lande by collaterall descent/ and
 nat

that by lyny all ascencion.

And in suche case wher p^r son pur
chaseth lande in fee symple/ And dyeth
without yssue/ they of hys blode on p^r
fathers syde shall inheryte as heyres
vnto hym / before any of the bloode of
the mothers syde. But if he haue none
heyre on the fathers syde/ thā shall the
lande descende vnto his heyres on the
mothers syde. And this is the opinyō
of al the Justices. *W. 2. E. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.*
But there it was holden/ if any lande
descende to a man by the fathers syde
whiche dyeth without issue / that hys
next heyre on the fathers syde shall in-
heryte vnto hym (p^r is to say) the next
of blode of the father of the graundfa-
thers syde. And for default of suche an
heyre/ they that be of the fathers blode
of the parte of the mother of the father
(that is to say) the graundmother ought
to inheryte. And yf there be no suche
heyre on the fathers syde/ than the
lorde shall haue the lande by escheat.
And so it is yf a man take a wyfe inbe-
ryte in fee symple/ whiche hath yssue
a son and dyeth/ and p^r son entreteth in

Case

Ca. 12

Dyuer
syte.

The
elder son
is more
worthy
of blode

to the tenementes as son and heire vnto
to hys mother / & after dyeth without
ysue / the heires on the mothers syde
ought to inherite the tenementes / and
nat the heires on the father syde. And
yf there be none heires on the mother
syde / than the lord of whom the same
lande is holden / shall haue the same
lande by eschete. In the same maner it
is yf landes descende vnto the sone on
the fathers syde / and entere and after
dyeth without ysue / the lande shall des-
cende vnto the heires on the fathers
syde / and nat vnto the heires on the
mother syde. And if there be none heires
on the fathers syde / than the lord
of whom the lande is holden shall haue
the same lande by eschete. And so ye
maye se the dyuersyte / where the sone
purchaseth landes in fee simple / and
where he cometh into those landes / or
tenementes by dyscent on the fathers
syde / or on the mother syde. ¶

¶ Also yf there be thie brethrene / and
the myddell brother purchaseth lande
in fee simple and dyeth without ysue
the elder brother shall haue the lande
by

Fee symple. Jo. lito

by dyscent and nat the yonger. Also p^r
there be.iii. betherne/ and p^r yongest
brother purchaseth lande in fee symple
and dyeth without yssue/ the elder bro
ther shal haue the lande by discēt/ and
nat the myddel brother/ for that p^r the
elder brother is more worthy of blode.

E And it is to be vnderstande that no
man shal haue lande in fee symple by
dyscent as heyre vnto any man/ but p^r
he be hys heyre of the hole blode. For
if a man haue issue.ii. sones by.ii. ven
tres and the elder purchaseth lande in
fee symple and dyeth without yssue p^r
yonger brother shal nat haue p^r lande
but the vncle of the elder brother/ or
some other his nyghe cosyn shal haue
it/ for that that the yonger is but of
the halfe blode to the elder brother.

And if a man haue a son and doughter
by one ventree/ and a sone by an other
ventree. & the son by p^r fyrst ventree pur
chaseth lande in fee symple & dieth with
out yssue/ the syster shal haue the lande
by dyscent as heyre vnto her brother &
nat p^r yonger brother/ for p^r that p^r syster
is of the hole blode to her elder brother.

A.iii.

And

La. 6

Maris

Jo. lito

Jo. lito

Jo. lito

Jo. lito

Jo. lito

Jo. lito

Jo. lito

Co. i.

And also where a man is seased of landes in fee symple and he hath issue a son and a doughter by one ventre / & a son by an other ventre and dyeth / & the elder son entreth and dyeth without yssue / the doughter shall haue the lande and nat the yonger son / and yf is the yonger son heyre vnto his fader and nat his broder. But if the elder son entre nat in to the lande after the deth of hys father / but dyeth before entre made by hym / than the yonger broder may entre and haue y^e lande as heyre vnto hys father. But where the elder son in the case aforesayde entreth after the deth of his father and therof hath possessyon / than y^e syster shal haue the lande (*Quia possessio fratris de feodo simplici facit sororem esse heredem*) For the possessyon of the brother in fee symple maketh the syster to be heyre.

Marie

An. xl.

E. iii. fo

it. by

Kencot

And the

same.

But yf there be ii. brotherne by dyuers ventres / and the elder is seased in fee symple and dyeth without yssue / & his wyf entreteth as heyre vnto hym / whiche also dyeth without issue / than the yonger brother may haue the lande as heyre

Fee symple.

Jo. liii.

as heyre vnto hys vncle/because he is
of þe hole blod to him though he be but
of halfe bloode vnto his elder brother.

¶ And it is to vnderstande that this
worde inherytaunce / is nat only vnder-
stande where a man hath landes or
tenementes by dyscende of heretage.
But also euery fee symple / or fee tayle
that a man hath by his purchase may
be sayde inherytaunce / for that that
his heires may inheryte hym. For in
a wyrt of ryght that a man byngeth
of lande / that was of hys owne pur-
chase/the wyrt shall saye (Quam cla-
mat esse ius et hereditate suam) That
is to say which he claymeth to be hys
ryght and his inherytaunce. And so it
shall be sayde in dyuers other wyrttes
whiche a man or a woman byngethe
of theyr owne purchase / as it apereth
by the regestor. ¶: * : * : * :

¶ And of suche thynges as a man
may haue a manuell occupacyon / pos-
sessyō / or receyte / as of landes / tene-
mentes / rentes / and such other / a man
shall say in hys pledyng and in way of
barre / that one suth was seled in hys

demet-

Ca. f.

kyng.

An. 24.

Jo. vii.

what is

Endery

taunce.

* The
forme of
a wyrt.

Ca. i.

demeine as of fe. But of suche thyngs
that lye nat in manuel occupacyon. &c
as of auouson of a churche / and suche
maner thyng / there he shall saye that
he was seased as of fe / and nat in hys
demeine as of fee. And in laten it is in
the same case sayde. (Quod talis fuit
seisitus in dnico suo vt in feodo) that
is to say / that suche one was seased in
his demeane as of fee / & in that other /
(Quod talis fuit seisitus. &c. vt de feo-
do) that is to saye that one suche was
seased as of fee. ¶ : x : ¶ : ¶ : ¶ :

¶ The
mooste
greate
enherp-
tance.
¶ Pur-
chase.

¶ And note well that a man may nat
haue a more large ne greter estate of in-
herytaunce than fe symple. ¶ : Also
purchase is called the possessyō of lan-
des oꝝ tenementes that a man hath
by his dede oꝝ by his agrement /
vnto which possessyō he co-
meth nat by descent of a-
ny of his auncestres
oꝝ of his colyns
but by hys
owne
dede

¶ Fee taylor. ¶ Tenant

Fee taylor. fo. b.

Tenaunt in fee taylor is by force of
the statute of westmynstre the se
conde. Capitulo primo / for at the co-
men lawe before the sayde statute / all
inherytaunce were fee simple / for all
the gyftes whiche ben specified with
in the same statute / were fee simple con-
ditionally / as it appereth by the re-
hersall of the same statute. And now
by the same statute tenaunte in the
taylor is sayde in two maners / that is
to say / tenaunt in taylor generall / and
tenaunt in taylor specciall. ¶

Tenaunt in taylor generall / is where
landes or tenementes be gyven to a
man and to his heires of his body be-
gotten / In this case it is sayde general
taylor / for that yf what so ever woman
that the tenaunt taketh unto wyfe / yf
he have many wyues / and by ech of
theym hath yssue / yet ech one of these
yssues by possibilitye may inherite the
tenementes by force of the sayde gyfte /
by cause that every suche yssue is of
his body ingendred. ¶

In the same maner is where lades
& tenementes be gyven to a woman & to
the heires comynge out of her bodye
holwe

Ca. ii.

Divisiō

Gene-
ral taylor


herfed in the gyfte / that is for to layel
that thefe donours fhall haue thefe lan
des oz tenementes to them & to theyr hei
res betwene the two engendred & this
is fayde efpecial tayle for that y^e iflue
of y^e feconde wyfe may nat inheryte. &c
¶ And note well that thys worde (tal
liate) is to fay to fet vnto fume certen
oz els lymyte vnto fume certayne inhe
rytaunce. And for that that it is lymit
and fet in certayne / what y^e iflue fhall in
heryte by force of fuche gyftes & howe
longe y^e the inherytaunce fhall endure
Therfor it is called in laren (Feodum
tolliatum. i. hereditas in quodam cer
titudine limitata) For if tenaunt in ge
nerall tayle dye without y^e iflue the do
nour oz his heyres fhall inheryte as in
theyr reuerfion / In the fame wyfe is
of the tenaunt in the tayle fpeciall. &c.
For in every gyfte of the tayle with
out more fayenge the reuerfion of fee
fimple is in the donoure. ¶ *

¶ And the donours / and theyr heyres
fhall do to the donour and to his hey
res fuche fcrupes as the donour doth
vnto his lord nexte aboue. Except y^e
donours


Ca. ii.

what fe
tayle is.

¶ By
what fer
uices y^e
tenants
in tayle
fhall hold

Ca. ii. donees in franke maryage / whiche
of they? of scrupes (but if it be for fealte) vntyll
donour. the fourthe degre be paste. And after
that the. iiii. degres be paste / the yssue
in the fyfte degre & so forth the other
issues after hym / shall holde of the do-
nour and of hys heires / as they holde
ouer as is aforclayde. 

Howe
the de-
grees
in franke
maryage
shall be
accomp-
ted.

¶ And the degres in franke mariage
shalbe accompted in suche maner / that
is to say / fro the donour to the donees
in franke maryage the fyfte degre /
for that y^e the wyfe that is one of the
donees ought to be y^e daughter syster
or other cosyn to the donour. And fro
the donees vnto they^r yssue shalbe ac-
compted the seconde degre. And from
they^r yssue vnto they^r issue / the thyrde
degre and so forth. 

¶ And the cause is / for y^e after euery
suche gyfte / the yssues that com of the
donour / and the yssues that com of the
donees after the fourth degre paste / of
bothe parties in suche forme to be ac-
compted / maye betwext them by the
lawe.

Fee tayle. Ho. vii.

lawe of holy church entermarpe. And
that the done in franke marpage shall
by the fyrste degree of the.iii. degrees
a man may se in a plice vpon a wyrt of
ryght of warde. An. xxi. E. iii. where
the playntife pleded/ that hys ayle/ or
graufader was seased of certayne lan
des. &c. And y^e he helde of an other by
knyght seruyce. &c. whiche gaue the
lande vnto one Kate Hollande w^{ch} his
syster in franke marpage. &c. And all
these tayles beforesayde be specified in
the sayde estatute of westminster p. ii.

Ca. ii.

¶ Also there be dyuers other estates Equyte
in the tayle / howbeit that they be nat of the
specified by expresse wordes in y^e sayde statute.
estatute/ but they be taken by y^e equyte
of the statute/ as if landes be gauen vn
to a man and to hys heyres males of
his body ingendred/ In suche case his
heyre male shal inheryte/ and the issue
female shal neuer inheryte/ yet in these
other tayles aforesayde it is otherwise
In the same maner it is yf landes be
gauen to a man / and to hys heyres
females of hys body ingendred. In
such case hys yssue females shal in
heryte

Ca. ii.

x: The
wylt of
the do-
nour in
al thig;
shal be ob-
serued.

herpte by force and forme of the sayde
gyfte & nat the yssue male / for that in
such cases where y gyfte is, who ought
to inheryte and who nat / the wyl of
the donour shal be obserued. And in the
case where landes be gyuen to a man
and to hys heyres males yssynge of
hys body / and he hath yssue. ii. sounes
and deceaseth / the elder son entreteth as
heyre male and hath yssue a daughter
and deceaseth / hys brother shal haue
the lande & nat the daughter / for that
the brother is heyre male. But it shal
be otherwyle in these other tayles as
for sayde / whiche ben especyfyed in the
sayde estatute / the daughter shal en-
heryte before the brother. ¶ x: ¶

Tayle
vnto the
heyres.
males.

x: Also if lande be gyuen vnto a man
and to his heyres males of his bodye
ingendred & he hath yssue a daughter /
whiche hath yssue a sone & deceaseth /
and after that the donee deceaseth. In
this case the son of the daughter shal
nat inheryte by force of the tayle / for
that who so euer shal inheryte by force
of a gyfte in the tayle made vnto hys
heyres males / be boueth to coucy hys
discent.

Fee tayle.

fo. viii.

Descent alway by the males. **R.** **fo. viii.**
E. iii. fo. xlv. But in suche case the do-
nour shall entre/ for that the donee is
dede withoute yssue male in the lawe.
In so muche & the yssue of the dough-
ter maye nat conuey to hym the des-
cente of heyre male. And in the same
maner is it where landes be gyuen to
a man & hys wyfe & to hys heyres ma-
les of theyr two bodyes ingendred. &c.

E Also yf tenementes be gyuen to a
man and hys wyfe / and to the heyres
of the bodye of the man ingendred / in
thys case the husbände hath estate in
the generall tayle / and the wyfe but
estate for terms of lyfe. **G. : D. : X. :**

E Also yf landes be gyuen to the hus-
bände & to the wyfe / and to the heyres
of the husbände whiche he ingendreth
of the bodye of y^e wyfe / In this case the
husbände hath estate in the specyall
tayle / & the wyfe but for for tme of lyfe
E And if the gyfte be made to the hus-
bände & to the wyfe / and to the heyres
of the wyfe of her body by the husbände
ingendred / than the wyfe hath estate
in the specyall tayle / and the husbände

Ca. ii.

The dys-
cent of
heyres
males.

1.07

12.14.01

02.00.01

When a
husbände
hath
estate in
tayle c-
specyall

& when
y^e wyfe.

11.07.01

11.07.01

02.00.01

11.07.01

B. i.

but

Li. ii.

but for terme of lyfe. But yf landes be
gyuen to the husbande and the wyfe /
and to the heyres that the husbande in
gendreth on the body of the wyfe / In
this case both haue estate in the taylor

An. xii.

H. iii.

fo. i.

twyse al

ledged,

et.

for þ this worde (heyres) is nat lymp-
ted no more to the one thā to the other

¶ Also yf landes be gyuen to a man &
hys heyres that he engendreth on the
body of hys wyfe / in this case the hus-
bande hath estate in the taylor special /
and the wyfe nothyng. ¶: *:

¶ Also if a man haue yssue a sone / and
deceaseth / and the lande is gyuen to
the son and to the heyre of the body of
hys father ingendred / thys is a good
taylor / and yet the father was deade at
the tyme of the gyfte. ¶: *:

**Fee sim-
ple con-
dycio-
nally.**

¶ Also there be many other estates in
the taylor by the equyte of y^e sayde esta-
tute that be nat specified here. But yf
a man gyue landes / or tenementes to
an other to haue and to holde to hym
and to his heyres males / or to hys hey-
res females / he to whome suche gyfte
is made hath fe simple / for that that
it is lympyed by the gyfte / of what
by

Tenant in taylor after. **fo. ix.**
body the yssue male or female shall be
and so it may nat in any thyng be ta- **Ca. ii.**
ken by the equitye of the sayde estatute
and therefore be hath the fee simple.

Tenant in taylor after
possibilitye of yssue
extyncte.

Tenant in the taylor after possy-
bilitye of the yssue extyncte / is **Ca. iiii.**
where as landes / or tenementes be gy-
uen vnto a man / and hys wyfe in spe-
cial taylor / yf one of them decease with-
oute yssue / he that suryuethe is te-
nant in the taylor after possibilitye of
yssue extyncte. And yf they haue yssue
durynge the lyfe of the yssue / he that
suryueth shal nat be sayde tenant in
the taylor after possibilitye of yssue ex-
tyncte. Per yf the yssue decease without
yssue / so that there be none a lyue that
may inheryte by force of the taylor / tha-
be that suryueth of the donees / is te-
nant in the taylor after possibilitye of
yssue extyncte.

Also yf landes be gyuen to a man
and to his heyres that be engedred on
B. ii. the

Ca. iii. the body of hys wyte / In thys case the
wyte hath nought in the tenementes /
and the husbände is seased as done in
specyall taylor . And in thys case yf the
wyte decease without yssue of her body
engendred by her husbände / than the
husbände is ternaunt in the taylor after
possibyltye of yssue extincte .

Maxie. ¶ And note well that none may be
ternaunt in the taylor after possibyltye of
yssue extincte / but one of the dones / or
the donee in specyall taylor / for the donee
in generall taylor maye neuer be sayde
ternaunt in the taylor after possibyltye of
yssue extincte / for that alwaye durynge
hys lyfe / he maye by possibyltye haue
issue that maye enheryte by force of the
same taylor . And so in the same maner
the yssue that is heyre vnto the dones
in a specyall taylor maye nat be sayde te-
naunte in taylor after possibyltye . &c .

(causa qua supra) ¶ : * : * : :

¶ Also ternaunt in taylor after possibyltye
of issue extincte / shal neuer be punished
of waste / for the inheritans that ones
was in hym . Anno . r . h . vi . fo . i . But
he in the reuercyon maye entre / yf he
doth

Tenaunt by curtesy. Fo. x.
both alpen in fe. An. xl. v. E. iii. Fo. 22.

Tenaunt by the curtesy of Englade. Ca. liti.

Tenaunt by the curtesy of Eng-
lande / is where a man taketh a
wyfe seased in fee symple / or of fee taylor
generall / or as heye in the taylor spe-
cyall / and hath yssue by the same wyfe
male or female. The yssue after being
deceid or a lyue / yf the wyfe decease / the
husbande shall holde the lande during
his lyfe by the lawe of Englande / and
this is called tenaunt by the curtesye /
for that hit is nat vled in none other
realme but only in Englade / And sum
saye that it shal nat be sayde tenaunt by
the curtesy / but yf that chyldre that he
hathe by his wyfe be harde crye / for
by the crye is the profe that the chyldre
that he had by his wyfe was borne.

Tenaunt in dower.

Ca. v.

Tenaunte in dower / is where a
man is seased of certayne landes
or tenementes in fee symple / or in fee
taylor generall / or as heye in the taylor
specyall / and taketh a wyfe and decea-
seth / the wyfe after the decease of her
husbande shalbe endowed of the thyrde

B. iii.

parte

Ca. v.

Of what
age the
wyfe
shal be
endowed
& howe
A. xii. y.
iii. fo.
iii. by
Hauk &
Tokyn.

Dower
at the
churche
dore.

parte of suche landes / or tenementes
that were her husbandes in any tyme
duryng the couerture / to haue and to
holde to the same wyfe in leueralte by
metes / and boundes for terme of her
lyfe whether she haue by her husbāde
issue or none / and of what age that the
wyfe be / so that she passe the age of .x.
yere at the tyme of her husbādes deeth
or elles she shall nat be endowed. And
notewel that by the common lawe the
wyfe shal nat haue for her dower / but
the thyrde parte of the tenementes /
whiche were her husbandes duryng
the espousels. By custome of sum coun-
trei he shall haue the halfe / and by cu-
stome of sum towne / or boroughe / she
shall haue the hole / & in all these cases
she shall be sayde ternaunt in Dower.
¶ Also there is .ii. other maner of dow-
ers / that is to say / dower called dowe-
ment at the churche dore / and dower
called dowemēt by the fathers assent.
Dowemēt at the church dore / is where
a man of full age is sealed in fe symple
whiche shall be wedded vnto a wyfe /
whan he cometh vnto the church dore
and

Dower.

f o. xl.

and there after assyaunce and trowgh
plyght made betwene them endoweth
hys wyfe of hys hole lande / or of the
halfe or lesse parcell / and there openly
declare the quantite and the certaynte
of hys lande that she shall haue for her
dower / In thys case the wyfe after the
death of her husbände shall enter in to
the sayde quantyte of lande / of whiche
her husbände endowed her without the
assygne ment of any man. Dowement
by the fathers assent / is where the fa-
ther is seased of tenementes in fe / and
hys son and heyre apparant whan he
is wedded / endoweth hys wyfe at the
churche doze of parcel of the landes or
tenementes of hys fathers of th assent
of his father / and assygneth the quan-
tyte of the parcels / In thys case after
the deth of the son / the wyfe shall enter
in the same parcell without the assyge-
nement of any other . But it hath ben
sayde in thys case y^e it behoueth y^e wife
to haue a bede of the father puing hys
assēt & cōsent of such indowemēt. And
if after y^e deth of y^e husbād she entre &
agre vnto any such dower of the sayde

Ca. v.

**Dower
by the
fathers
assent.**

**A wyfe
is asked
Ex. xl.
E. 3. fo.
rlv.**

B. iiii.

all.

Ca. 6.

§. 12. C.

4. fo. 3.

Whiche
do agre
vnto the
same.

¶ rul. 8.

Inquire

where
as the
wyfe
may en-
tre i her
dower
without
assigne-
ment / &
where
nat.

ii. dowers at the churche dore / than she
is concluded to clayme any other dower
by the common lawe of any landes / or
tenementes / whiche were of her sayde
husbande. But yf she wyll she may re-
fuse suche dower at the churche dore /
and than she may be endowed after y^e
course of the comune lawe. And note
well that no wyfe shall be endowed of
the fathers assente in the forme afore-
sayde / save where her husbände is son
and heye apparant to hys father.

¶ Inquyre in these. ii. cases of Endow-
ment at the church dore / if the wyfe at
the tyme of the death of her husbände
was nat the age of. ix. yerres / if she shall
haue suche dower or no. ¶

¶ And note wel y^t in al cases where
the certaynte appereth what landes
or tenementes the wyfe shall haue for
her dower / the wyfe maye entre after
the deith of her husbände withoute as-
signemente of any other. But where
the certaynte apereth nat / as to be en-
dowed of the thyrde parte / to haue in
seueralte / or to be endowed of the halfe
after the custome to holde in seueralte

In

Dower.

fo. xii.

In suche cases it behouethe / that her
dower be vnto her assygned after the
deth of her husbände / bycause it is nat
lymytte before the assynement what
parte of landes or tenementes he shall
haue for her dower. But yf ther be. ii.
ioyntenautes of certayne landes in fe
and the one alpeneth that that to him
partepneth and belongeth to an other
in fee / whiche taketh a wyfe / and after
dyeth / In thys case the wyfe for her
dower shall haue the thyrde parte of y^e
halfe that her husbände purchased / to
holde in cōmune and occupy in comen
as her parte amounteth with the hey
re of her husbände / and with the other
ioyntenaüt whiche alpened nat / for y^e
in suche case her dower may nat be as
syned by metes and boundes.

¶ And it is to be vnderstande that the
wyfe shall nat be endowed of landes or
tenementes y^e her husbāde ioynthly helde
with an other at the tyme of his deth.
But where he holdeth in comon other
wyse it is as in the case aforesayd. And
it is to wyl that yf the tenaüt in tale
endowe hys wyfe at the churche doze

Ca. v.

An. xl.

**E. iii. fo
xxiii by
fencot.**

*** The
wyfe
shall nat
be en-
dowed
of the
ioynt
estate of**

B. v.

as is

Ca. 6.
her hus-
bande.
A. xiii.
B. iiii.
fo. 14.
where
assigne-
ment of
dower
shalbe
byde
by reas-
son of
within
age. &c.
Dower
de la
plus
beale.

as it is aforesayd p^r shal serue for lytel
or nought to the wife for p^r that after
the deeth of her husbande the issue in the
taylor may entre vpon p^r possession of
the wyfe / & so may he in p^r reuercyō p^r
there be none yssue in the taylor a lyue.
C Also yf a man seased in fee symple/
being within age endowe hys wyfe at
the church doze / and dyethe / and the
wyfe entreteth. In this case p^r heyre of
the husbande maye put her oute. But
other wyse it is as it semeth where the
father is seased in fee / & the son within
age endowe his wyfe of his fathers al-
sent / the father than beinge of ful age.
C And there is an other dower which
is called Dowement (de la plus beale)
And that is as in suche case p^r a man
is seased of .xl. acres of lande / and he
holdeth .xx. of p^r sayde .xl. acres of one
man by knyghtes seruyce / & the other
xx. acres of an other in Socage / and
taketh a wyfe & hath issue a son & dieth
his son beinge within the age of .xiii.
yeres / and the lorde of whome the lāde
is holden by knyghtes seruyce entreteth
in to the .xx. acres of lande holden of
hym

hym/ and them hath and occupieth as
warden in chivalry during y^e chyldes
nonage/ & the chyldes mother entreth
in the remenaunt/ and it occupyeth as
gardeyn or wardeyne in socage. If in
thys case the wyfe brynge a wrytte of
Dower agaynst the wardeyne in chy-
ualry to be endowed of the tenementes
holdē by knyghtes seruice in the kings
court/ or in any other courte/ the war-
deyne in chivalry may pleade in suche
case all the mater/ and shewe howe the
wyfe is wardeyne in socage as it is a-
foresayde/ & pray y^e it maye be adru-
ged by the court that the wyfe endowe her
selfe of the moſte sayre called (plus be-
ale) of the tenementes that she hath as
wardeyne in socage after the value of
the thyrde parte that she claymeth to
haue of the tenementes in chivalry by
her wrytte of Dower. And if the wyfe
may nat gayne say it/ than the iudge-
ment shalbe made that the wardeyn in
chivalry shal holde the landes holden
of hym durig the nonage of the chyld
quyte from the woman. &c. And that
the woman maye endowe her selfe
of the

Ca. b.

of the moſte fayreſt parte of the landes
that he hath/as wardeyn in ſocage to
the valure of the thyrde parte that the
wardeyne in chyualry hathe . &c. And
after ſuche iugement gyuen/the wyfe
maye take her neyghbours/ & in theyr
preſens endowe her ſelfe by metes and
boundes of the fayreſt parte of that te
nementes that ſhe hath as wardeyn in
ſocage to the value of the thyrde parte
of the landes that the wardeyne in chi
ualry hathe / and that to haue & holde
for terme of her lyfe . And ſuche dower
is called dower of the fayreſt parte / or
(de plus beale) ¶ with this agree the.
19. xlv. E. iii. fo. iii. But there it was
ſayde/that after the tyme y^e the heyre
came to his ful age/the wyfe ſhal haue
a newe accyon of dowe agaynſte the
heyre to be endowed of the thyrde part
of all that the man dyed ſeaſed . And
note well that ſuche dowerment maye
nat be / but where the iudgemente is
gyuen in the kynges courte/ or in ſom
other court. And the wyfe may do this
for the ſaluacyō of the ſtate of the war
deyn in chyualry durynge the nonage
of the

Ca. v.

An. xii.

W. iii.

fo. i.

Nota.

unto a man and to the heyres that he getteth on hys wyues bode / in suche case the wyfe hath nought in the tene-
mentes. And the husbande hath estate but as done in speyal taylor / yet yf the husbande dye without yssue / the same wyfe shalbe endowed of the same tene-
mentes / for that the yssue that she by possibilite might haue had by y^e same husbande / maye inheryte the same te-
nementes. But yf the wyfe decease ly-
uynge the husbande / & after he taketh an other wyfe / the .ii. wyfe shall nat be endowed in this case (causa qua supra)

C A man was seysed of certayne lan-
des / and toke a wyfe / and after aliened the same landes with warrantye / and after the feoffour and feoffe dyed / and the wyfe of the feoffoure bryngeth an accyon of Dower agaynst the issue of the feoffe / and he vouched the heyre of the feoffour / and durynge the vouchur and nat termyned / the wyfe of the feoffe bryngeth an accyon of dower agaynst the heyre of the feoffe / and de-
maundeth the thyrde parte of all that her husbande was seysed / and wolde

nat

Dower.

fo. 2b.

nat demaunde the thyrde parte of
those two partyes / that her husbande
was seysed / It was iuged that she
shulde haue no iugemente vntyll the
tyme þ the other pie were determined
* And also note that Glauasout sayth
that yf a man be seysed of landes / and
commytteth felony / and alyeneth and
after is attaynted / the wyfe shal

Ca. b.

haue good accyon of dower

agaynst the feoffe.

But if it be esche

ted vnto the

kyng /

or

vnto the lord / she shal haue no wyfe

of dower. And so se the diuer

spte / and enqyre

the cause.

: * :

A Enaunte for terme of lyfe / is

Ca. vi.

where a man leteth landes / or
tenementes to a man / for terme of lyfe
of the lease / or for terme of lyfe for an
other manne. ¶ In suche case the
lessee is tenaunt for terme of lyfe. But
by common langage he that holder be

for

Ca. vi.

for terme of his owne lyfe is called tenaunte for terme of lyfe / and he that holdeth for terme of an other mannes lyfe / is called tenaunt for terme of an other mannes lyfe. And it is to be vnderstande that there is feoffour & feoffe / donoure and done / lessour and lessee. The feoffour is properly where a man enfranchise an other in any landes / or tenementes in fe symple / he that maketh the feoffment is called feoffour / and he vnto whome the feoffment is made is called feoffe / and the donour is properly where a man gyuethe certayne landes / or tenementes to an other in the taylor / he that maketh the gyfte is called donour / & he to whom the gyfte is made is called donee. And lessour is properly / where a man letteth to an other certayne landes or tenementes for terme of lyfe / for terme of yeres / or to holde at wyll / he that maketh the lessee is called lessour / and he to whom the lessee is made is called lessee / and every one that hath estate in landes / or tenementes for terme of his owne lyfe or for terme of an other mannes lyfe is called

Tenant for terme of lyfe. Fo. xbi.
called tenant of free holde. And none
of lesse & state may haue free holde/ but
they of greater estate maye haue free
holde/ for ternaunte in fee symple hath
free holde/ and ternaunte in the tale
hath also free holde. *G: D: R: X: 01*

Ca. vi.

Tenant for tme of yerres **Ca. vii.**

Ternaunte for terme of yerres is
where a man letteth lades or te-
nementes to an other for terme of cer-
tayne yerres after the nomber of yerres
that is accorded betwene the lessoure
and the lesse / and whan the lessee en-
trecth by force of the lesse/ than is he te-
naunt for terme of yerres/ and yf the les-
sour in suche case reserue to hym a yer-
tely rent vpon such lees, he may chose
for to dystrayne for the rent in the te-
nemes letten/ or els he maye take an
accpō of del for the arerages agaynst
the lessee. But in such case it behoueth
that the lessoure be sealed in the same
tenementes at the tyme of his lees / for
it is a good plee for the lesse to say that
the lessoure had nothyng in the tene-
mentes at the tyme of the lessee excepte
the lees be made by dede endented / in

Ca. vii.



E. i. whyche

Ca. vii.

where
lyuere
of seysin
shal be
requy-
red and
where
nat.

whiche case than suche plece lyeth nat
for the lessee to plede. *¶* *¶* *¶* *¶*

And it is to vnderstande that in a
lease for terme of yeres by dede or with
out dede / it nedeth no lyuere of seysin
to be made to the lessee / but he may en-
ter whan so euer he wyl by force of the
same lease. But of feoffementes made
in the contrey / or gyftes in the taylor /
or leases for terme of lyfe. In suche
cases where free holde shall passe / yf it
be by dede or without dede / it behoueth
to haue lyuere of seysin. &c. But yf a
man let landes or tenementes by dede
or without dede for terme of yeres /
the remayndre ouer to an other / for
terme of lyfe / or in the taylor / or in fee /
than in suche case / it behoueth that
the lessour make lyuere of seysin to
the lessee for terme of yeres / or els there
shall nothyng passe to them in the re-
mayndre though the lessee entre in the
tenementes. And if the fermour in such
case entre before any suche lyuere of
seysin made vnto hym / than is the free
holde and the reuertyon in the lessour
But yf he make any lyuere of seysin
vnto

Tenast for terme of yeres. Fo. pbit.
vnto the lessee / than it is fre holde w^t
the fee to them in the remayndre after **La. bit.**
the fourme of the graunt & wyll of the
lessour. And if a man wyl make a scot-
fement by dede or without dede of lan-
des or tenementes that he hath in mo-
townes than in one in one hyze / if the
lyuere of sepsyn be made in one parcell
of the tenementes in one towne in the
name of all / it suffiseth for al the other
landes or tenementes comprehendyd
in the same scotfement in al other tow-
nes in þ same hyze. But if a mā make
a dede of felfhemēt of landes or tenemē-
tes in diuers hyzes / there it behoueth
hym to haue in euery hyze a lyuere of
sepsyn. And in suche case a man shall
haue by y^e graunt of an other fe sym-
ple / fe taylor / or fre holde w^tout lyuere
of sepsyn. As pf. ii. men be & eche of the
is seled of a quāte of lāde within one **Exchaū**
hyze & the one graunteth his lāde to y^e **ge.**
other in exchange for the lāde that y^e
other hath / & in the same maner y^e o-
ther graunteth his lande to the fyrste
grauntour in exchange / for the lande
that the fyrste grauntoure hath. In

Ca. vii.

In ex-
change
the esta-
tes
ought
to be
egall.

thys case eche may entre in the other
landes so taken in exchaunge without
any lpuere of seasyon. And suche ex-
chaunge made by wordes of tenementes
within the same shyre withoute any
wrytyng is good ynoughe. And yf the
lades or tenementes be in dyuers shyres
that is to saye yf that the one haue in
one shyre & the other hath in an other
shyre/ it behooueth to haue a dede inden-
ted made betwene the of such exchaung
¶ And note that in exchaunge it beho-
ueth that y^e estates that both parties
haue in the landes so exchaunged be e-
gall. For if the one wylleth and graun-
teth that the other shal haue his lande
in the taylor/ for the lande that he hath
of the graunt of the other in fe simple
though that the other is agreed to y^e/
yet this exchaunge is but voyde / for
that the estates be nat euen.

¶ In the same maner it is where it is
graunted: and agreed betwene theym
that the one shal haue in the one lande
fre taylor/ and y^e other shal haue in the
other lande but terme of lyfe. Or if one
shal haue in the one lande fe taylor ge-
nerall

Tenaunt for tme of yeres. fo. xliii.
neral/and the other in the other lande
fee taylor specyall. So alway it beho-
ueth that in exchaunge the states of
both parties be euen/ that is to say yf
that one haue fee symple in that one
lande / that the other shall haue suche
estate in the other lande/and if the one
haue fee taylor in the one lande / than
the other shall haue lyke wyse in the
other lande (Et sic de alijs statibus)
But it is nothyng to charge of the
euen value of the landes / for though
that the lande of that one is muche
more in value than the lande of the o-
ther/ this is nothyng to purpose / so
that the estate made by the exchaunge
be euen / and so in exchaunge be two
grauntes/ for euery parte graunte the
hys lande to the other in exchaunge /
and in ech of theyr grauntes mency-
on shall be made of the exchaunge .

And yf a man let lande to an other
for terme of yeres/though the lessour
dye before the lesse entre in to the tene-
mentes / yet may he entre in to the te-
nementes after the deth of the lessour/
so that that the lesse by force of the

L.iii.

lease

Ca. vii.

An. ix.

E. iii.

fo. xli.

**Of poss-
session
& seysen**

Ca. vii.

lease hath the ryght incontinent to haue the tenementes after the fourme of the lease. But if a man make a dede of feffement vnto an other / and a letter of attourney to a man to deliuer to hym selfyn by force of the same dede / yet yf the lyuere of selfyn be nat made in the lyfe of hym that made y^e dede it auayleth nat / for y^e the other hath no maner of ryght to haue the tenementes after the purpose of the dede befoze y^e lyuere of selfyn. &c. And if no lyuere be made than after the dethe of hym that made the dede / the ryght of such tenementes is contynēt in his heyre / or in sum other.

Waste a **T**Also yf tenementes be let to a man gaynst for terme of halfe a yere / or for terme tennant of a quarter of a yere. &c. In suche case for tennant if the lesse make waste / the lessour shal me of haue agaynst him a wyrt of wast / and yres the wyrt shal say (Qui tenet ad terminum annorum. But he shal haue a spe An. 14. B. 8. fo. cyall declaracyon vpon the trowth of 13. a. An this mater / & the plc shal nat abate the 4. E. 4. wyrt for that y^e he may haue no other 10. 19. wyrt vpon y^e mater. An. 7. B. 7. fo. 1.

Tennant at wyll. Ca. viii.

Tenaute

Tenaunt at wyl. Fo. xix.

Tenaunt at wyl/is where landes
or tenementes be letten by a man
vnto an other / to haue and to holde
to hym at the wyl of the lessoure / by
force of whiche lease the lessee is in pos-
session. In suche case the lessee is cal-
led tenaunt at wyl/for that he hath
no certayne sure estate/for the lessoure
may put hym out at what time it ple-
seth hym/ yet yf the lessee sowe y^e lande
and the lessour after the sowynge/and
before y^e hys greynes be ripe putteth
hym out / yet shall the lessee haue hys
greynes / and shall haue free egress &
regresse to reape and to carie hys greyn-
es/for that he wyl nat at what time
hys lessoure wolde entre vpon hym.
Otherwyle it is yf tenaunt for terme
of yeres before the ende of hys terme
soweth the lande/ & the terme is ended
before y^e his greynes be ripe/ In this
case y^e lessor/or he in the reuercyō shall
haue y^e greynes/for that y^e termoure
knewe wel the certaynte of his terme/
and whan his terme shulde be ended.

Also yf an house be lette to a man
to holde at wyl / by force of whiche

L.iii.

the

with
thys a-
greeth.
An. 37.
B. 6. fo.
38.

Ca. viii.

the lesse entrech in to the house with-
in whiche house he byngeth his hous-
holde stuffe/ and after the lessoure put-
teth him out/ yet shal he haue fre entre-
egresse and regresse in the same house
by resonable tyme to cary his goodes
and housholde stuffe. And yf a man sea-
sed of an house in fee symple/ fee taylor/
or for terme of lyfe / the whiche hath
certayne goodes w^{ch} in the same house
and maketh his executores and dy-
ceseth/ who so euer after his deith hath
the house/ yet shal his executors haue
fre entre / egress and regresse to carye
out of the house the goodes of theyr tes-
tatur by a resonable tyme.

¶ Also if a man make a dede of feoffe-
ment vnto an other of certayne lande
and deliuereth to hym the dede / but
no lyncere of seayn. In this case he to
whome the dede is made may entre in
to the lande/ and holde and occuppe it
at the wyl of hym that made the dede
for that y^e is proued by the wordes of
the dede that it is his wyl y^e the other
shal haue the lande. But he that made
the dede may put him out w^{ch} a he wyl

Also

26
57
Ex.

26

Tenaunt at wyl.

fo. xx.

Also yf an house be lette to holde at wyl/ the lessee is nat holden to sustayne or repayre the house / as tenaunte for terme of yeres is holden to do. But yf the lessee at wyl make voluntary wast as in pullynge downe of houses/ or in cuttyng or felling of trees. It is sayde that the lessoure shall haue for that agaynste hym an accyon of Trespas. As yf I deliuer to a man my shepe to dunge or marle his lade/ or myne oxen to eate his lande/ & he fleeth my beestes I may well haue an accyon of trespass agaynste hym nat withstandynge the deliuerie . . .

Also yf the lessoure vpon suche lease at wyl reserue vnto hym a yerely rent he may dystreynne for the rent behynde or to haue for that an accyon of det at his owne choyse. H. 6. R. 2. i Kcpleu.

Tenaunte by copy of court rolle. Capit. ix.

Tenaunt by copy of court rolle is as yf a man be seased of a maner within whiche maner there is a custome and hath bene vsed tyme oute of mynde / that certayne tenantes with

C. b.

in

Ca. viii

A waste made by tenaunt at wyl/ howe he shalbe punyshed.

Loke.

An. xii.

E. iii.

fo. viii.

an accyon of trespass.

Ca. ix.

Ca. ix.

Forme
of surren-
der in
courte
baron.

in the same maner haue bled to haue
landes or tenementes to holde to them /
and to theyr heyres in fee simple / or in
fee taylor / or for terme of lyfe. &c. at the
wyll of the lord / after the custome of
the same maner. And suche a ternaunte
may nat alpen the lande by dede / for
than the lord may entre as in a thing
forfayte to hym. But yf he wyll alpen
hys lande to an other / hym behoueth
after sum custome to surrendre the te-
nementes in sum court. &c. in to the lord
des handes to the vse of hym that shal
haue the estate in suche forme / or to
suche effecte (Ad hanc curiam venit A.
de. B. et sursum reddidit in eandem cu-
riam vnum messugium. &c. in manus
domini ad vsum. E. de. A. et hercdum
suorum vñ hercd de corpore suo exeunt
vel pro termino vite sue. &c. Et sup hoc
venit predict E. de A. et cepit de domi-
no in eadem cur messuagium predictũ
&c. habendum et tenendum sibi et here-
dibus suis / vel sibi et hercd de corpore
suo exeuntibus / vel sibi ad terminum
vite sue / ad voluntatem dñi secundum
cõsuetudinẽ maneru / faciendũ / et reddẽ
moe

Copy of court rolle. Fo. xxi.

inde reddit/ debit/seruic/cōsuetudines
inde p̄p̄us debit & de iure cōsuet/ & dat
dñō de fine. &c. Et fecit doñō fidelita-
tē. &c. That is to say A. of B. cometh
vnto this court/ and surrendreth in the
same court a mese. &c. into the handes
of y^e lordc/ to the vse of E. of A. & bys
heyr̄es/ or to the heyr̄es/ y^e assig of bys
body or for terme of lyf. &c. And vpon
that cometh the forsayde E. of A. & ta-
keth of y^e lordc of y^e same court the for-
sayde mese. &c. to haue & to hold to him
& to his heyr̄es/ or to hym & to his heyr̄-
es insuyng of his body/ or to him for
terme of lyf at the lordys wyl after cus-
tome of y^e maner/ to do & yelde therfore
rentes/dettes/seruyces/and customes
therof before due and accustomed. &c.
and gyueth the lordc for a fyn. &c. and
maketh vnto the lordc bys scale. &c.
And suche tenaūtes ben called tenātes
by copy of court rolle/ for y^e they haue
none other evidences cōcerning theyr
tenemētes but the coppes of the court
rolles/ and suche tenaūtes shal nat im-
plede nor be impleded of theyr tenes-
mentes by the kynges wytte / but yf
they

Ca. ix.

**forme
of plait.**

Ca. xi.

they wyl implede other for theyr tene-
mentes/they shal haue a playnt made
in the courte of y^e lord in such forme
oz to suche effecte. A. de. B. queritur
versus. C. de. D. de placito terre/ vide-
licet de vno meluagio quadraginta a-
cris terre quatuor acris prati. &c. cum
pertinenciis. Et facit potestacionem
sequi querelam istam in natura breuis
dñi regis assise mortis antecessoris ad
communem legem/ vel breuis domini
regis assise noue disseisine ad cōmunē
legem) That is to say. A. of. B. cōplay-
neth agaynst. C. D. of a pce of lande/
that is for to say of a mese/ &c. el. acres
of lande/foure acres medowe. &c. with
the appurtenaunces and maketh pro-
testacion to sue his playnte in nature
of the kynges wyte of assise of the deth
of his antecessour at the comon lawe /
oz by wyte of our souerayne lord the
kyng of assise of nouel disseisin at the
comon lawe/oz in nature of som other
wyte. &c. pleges & pces. ff. B. And
though that sum suche tenaūtes haue
inherytaunce after the custome: and
maner/prt they haue none estate bu-

Ca. 16.

surrender theyr tencmentes in to the lordes hande to y^e vse of an other; they shall haue a lytell yarde / or rodde / by the custome and vse in theyr handes / whiche they shall delpyer vn to the Steward or Baylyfe / after the custome & vse of the maner. And he that shall haue the lande shall take the same lande in the court / and his takynge shall be entred in the rol. And the Steward or the baylyfe accordyng to y^e custome shall delpyer vnto him that taketh the lande the same yarde or an other yarde in the name of seysyn. And for this cause they be called ternautes by the yarde. But they haue none other cyp- dence but coppye of the court rolle.

Butten
der made
wthout
the
courte.

¶ And also in dyuers lordshippes and maners there is such custome yf such a ternaūt that holdeth by the custome w^{ll} alpen hys landes or tencmentes / he may surrendre his landes vnto the baylyfe or to the reue / or to two sad men of the same lordshyp / to the vse of hym that shall haue the lande / to haue in fee symple / fee taylor / or for terme of lyfe. &c. & all that shall they present as
the

Copy of court rolle. fo. xlii.
the next court. And than he shal haue
the lande by copy of court rolle/ & shal
haue the same lande after the entente
of the surrendre. And so it is to wete
that in dyuers lordshypes and dyuers
maners there be made dyuers custom-
mes in suche case/ as to take tenantes
and as to plede/ & as touchynge other
thynges and customes to be done and
all that that is nat agaynst reason
may well be admytted and allowed.

Ca. ix.






**Of cus-
tomes/**

And suche tenants that holde after
the custome of a signory/ or after y^e cu-
stome of a maner / though they haue
estate of inherytaunce after y^e custome
of the lordshype of the maner / yet by-
cause they haue nat any free holde by
the course of the comon lawe / they be
called tenants by base tenure.






¶ And dyuers diuersytes there be be-
twene a tenant at wyl which is in
by the lesse of the lessour by the course
of the comon lawe / and tenant after
the custome and maner in the forme a-
foresayde. For tenant at wyl after
the custome may haue estate of inhe-
rytaunce as it is aforesayde at the lordys
wyl

**Dyuer-
sytte.**

Ca. ix.
where
tenaunt
of wyll
hath en
heritace
& where
nat.

wyll after the custome / and vsage of
maner. But yf a man haue landes / or
tenementes whiche be nat within suche
maner or lordshype where suche custo
me hath bene vsed in the forme afores
sayde / and wyll let suche landes or te
nemente to an other / to haue and to
holde to him & to his heyres at the wyll
of his lessour these wordes to þ heyres
of the lesse be voyde for this is y^e cause
if the lessee dye & his heyre entret the
lessour that haue a good accyon of tres
pas agaynst hym / but nat so agaynst
the heyre of tenaut by the custome. &c.
in any case / for that the custome of the
maner in sum case maye helpe hym to
bar his lorde in an accyon of Trespas.
Also tenaunt by the custome in sum
places ought to repayre & sustayne the
bowles / and the other tenaut at wyll
ought nat. Also one by the custome
shall do sealte / and the other nat. And
dyuers other diuersytes there be be
twene them.     

Thus endeth the fyrste boke.

    
The seconde boke
Homage

Homage. Jo. crutt.



Homage is the moste ho-
norable seruyce & moste
humble seruyce of reue-
rence / that a franke te-
nante maye do to his
lorde. For whan the te-
nante shall make homage to his lorde
he shall discende & his hede uncouered &
his lorde shall syt / & the tenat shall knele
before hym on bothe his knees / & holde
hys handes ioyntly together betwene
the handes of hys lorde / and shall saye
thus. I be cum your man from this
day forwarde of lyfe / and lyn / and of
erthely worshyp / and vnto you shall be
trewe and faythfull / & here you say the
of the teneantes that I clayme to
holde of you / saynge the sayth that I
owe vnto our soueraine lorde y^e kinge
And thā y^e lorde so sitting shall kisse hi.
¶ But if an abbott or priour or any
other man of relygyon / shall make ho-
mage vnto hys lorde / he shall nat say. a relygy
I become your man / for that he hath ous per
professed hym selfe onely to be goddes son.
man. But he shall say thus / I do you

La. l.

The ma-
ner how
homage
shalbe
made.

1251104

D. l.

homage

Cal.

homage & unto you shalbe trewe / and
faythfull / and bare you faythe for the
tenementes that I clayme to holde of
you . Sayinge the faythe that I owe
vnto our souerayne lord the kynge .

**The ho
mage of
a wyfe.**

C Also yt woman sole shall make ho-
mage vnto her lord. She shal nat say
I become your woman . For that is
nat couenient for a woman to say that
she shal become the woman to any but
only to her husbände whan she is wed-
ded. But she shal say / I make vnto you
homage / and to you shalbe trewe / and
faythfull / and shall bere you faythe of
the tenementes that I holde of you /
sayinge the faythe that I owe vnto our
souerayne lord the kynge. ¶

**Homa-
ge whā
a man
holdeth
of dy-
uers lo-
des .**

C But if a man haue seuerall tenan-
cies whiche he holdeth of seuerall lor-
des / that is to say euery tenaunce by
homage / Than whan he maketh ho-
mage vnto one of hys lordes he shall
saye in the ende of hys homage . Sa-
uyng the faythe that I owe vnto the
kynge and vnto my other lordes. ¶

C And note well that none shal make
homage

Homage.

fo. xrb.

homage/ but such as hath estate in fee
simple or in fee tail in his owne right
or in an other mannes right. For it is
a grounde in the lawe / that he that
hathe estate but for terme of lyfe/ shall
make none homage/ nor take none ho
mage. For if a woman haue landes or
tenementes in fee simple/ or in fee tail
whiche he holdeth of her lord by ho
mage/ and taketh an husbände & hath
issue/ than the husbände in the lyfe of
the wyfe shall make homage/ for that
he hathe right to haue the lande by the
curtesye yf he surpue his wyfe. And
also he holdeth in p^e right of his wyfe
But afore issue betwene them/ the ho
mage shall be made in both theyr na
mes. But yf the wyfe decease before
homage made by the husbände in the
wifes lyfe/ and the husbände holdeth
hym selfe in as tenaunte by the cur
tesy / he shall make no homage vnto
his lord/ for that he hathe than none
estate but for terme of lyfe. More that
be sayde of homage in the tenure of ho
mage Auncestreil. ¶

Ca. i.

Marie.

H. viii.

E. iii.

fo. xs.

For scale. Cap. ii.

D. ii.

Scale

Ca. ii.

The ma-
ner how
fealte
shal be
made.

Dyuer-
site be-
twene
homage
& fealte.

Fealte is as muche to say as (Fi-
delitas) in latē / & whan a fraunce
tenaunte shal make fealte vnto the
lorde / he shal holde hys ryght hande
vpon a boke and shal say thus.

¶ Here you thys my lord / & I vnto
you shal be faythfull & trewe, and here
you saythe of the landes or tenementes
that I clayme to holde of you / & trewly
to you shal do the customes and scrup-
tes that I ought to do vnto you at ter-
mes assigned / as god me helpe and all
hys sayntes / and than he kysseth the
boke. But he shal nat knele whan he
maketh his fealte / nor shal make suche
humble reuerence / as is aforesayde in
homage. And greate dyuersyte there
is had betwene makynge of fealte / and
of homage / For homage maye nat be
made but to the lorde hym selfe. But
the steward of the lordes court or the
baylyfe may take fealte of the lorde.

¶ Also tenaunt for terme of lyfe shal
make fealte / and yet he shal make none
homage. And dyuers other dyuersites
there be betwene homage and fealte.

¶ Also a man may se a good note. An.

Sealte.

fo. xxvi.

rb. E. iii. where and howe a man and
howe a man & his wyfe made homage Ca. ii.
and sealte in the cōmon banke / whiche
is written in suche fourme. Note that
Johan Lewkenor / and Elisabeth his
wyfe / made homage vn to Wyllyam
Thorpe in thys maner. The one and
the other hyld e ioyntly theyr handes
betwene y^e hādes of Wyllyam Thorpe
and the husbāde sayde in thys wyse.
we vnto you make homage / and bere
you sayth for the landes that we holde
of. A. your Conusoure whiche hath
graunted you our seruyces in. B. and
in. C. & the other townes. &c. agaynst
al men saving the saythe that we owe
vnto our souerayne lord the kyng &
to his heires / and to our other lordes
and the one and the other kyssed hym.
And after they made sealte / and the
one and the other helde theyr handes
to gether / vpon a boke / & the husband
sayde the wordes and both kyssed the
boke. Note shall be sayde of sealte in
the tenure of Bocage / & in the tenure
of Franke almayne / and in the tenure
of homage ¶: x: *:

D. iii.

Escua

Escuage. Ca. iiii.

Escuage is called in laten (*Scutagium*) that is to say seruyce of shelde. And such a tenant that holdeth his lande by escuage/ holdeth by knyghtes seruyce. And also it is comenly sayde that sum holde by a fe of knyghtes seruyce/ and sum by the halfe fee of knyghtes seruyce. &c. And it is sayde that whan the kynge maketh a vyage royall in to Scotlande/ for to subdue the Scottes/ he that holdeth by a fee of knyghtes seruyce/ behoueth to be with the kynge by. xl. dayes well and counably arrayed for the warre. And lyke wyse he that holdeth his lande by the halfe of a fee by knyghtes seruyce oughte to be with the kynge by. xx. dayes. And he that holdeth his lande by the fourth parte of a fe by knyghtes seruyce/ hym behoueth to be with the kynge by. x. dayes. And so after the quantyte/ he that hath more to do more and he that hath lesse/ to do lesse. But it appereth by the ples and argumentes made in a good plec vpon a wytte of Detenue of an oblygacyon brought by one Harrye Graye. Anno. vii. E.

An. vii.
E. iiii. so
liii.

iii. That it needeth nat to him that holdeth by escuage to go hym selfe / yf he wyl fynde an able person for the warre couenably arrayed for the warre to go with the kynge / and that semeth good reason. For it may be that he that holdeth by suche scrupce is syke / in suche wyse that he may nat go no: ryde.

And also an abbot or any other man of religion / or a woman sole that holdeth by suche scrupces / oughte nat in suche case to go in proper person. And

By wylliam Herle that tyme chefe Justyce of the common place / sayde in the sayde plee that Escuage shall nat be graunted but where the kynge hym selfe goeth in proper person. And so it abode in iugemente in the same plee / yf these. xl. dayes shall be accōted from the daye of the mustre of the kynges hoste made by the comons / and by the kynges cōmaundement / Or els from the day that the kynge fyrste entreth into Scotlande. &c. Therefore inquire of thys matter.

And after suche voyage into Scotlande / it is comenly sayde / that by

D.iii.

the

Ca. iiii.

For what cause he that holdeth for escuage may fynde a man to do seruyces by hym.

Howe the. xl. dayes shall be accounted.

Ca. iiii.

Dyners
syte of
escuage

The co.
men spe

the auctoryte of parlyament the escuage shalbe set and put in certayne that is for to say a certayne sum of money / howe muche euery that holdeth by a holt fee of knyghtes seruyce / whiche was nat in hys owne proper person / nor none other wth hym with the kyng shall paye vnto the lord of whome he holdeth hys lande by escuage. As put case that it was ordeyned by auctoryte of parlyamet / that euery that holdeth by a holt fee by knyght seruyce which was nat with the kyng / shall paye to his lord. xl. s. Then he that holdeth by the halfe of a fe of knyghtes seruyce shall pay vnto hys lord but. xx. s. and so who more more / and who lesse lesse. And sum tenauntes holde that if escuage renne by auctoryte of parlyamet to any sum of money / that they shall pay but the halfe of that sum / & some but the fourth parte of that sum. But bycause the escuage that they shal pay is nat certayne / for that it is at no certayne what the parlyamet wyl assesse the escuage they holde by knyghtes seruyce. But otherwysse it is of escuage certayne

Escuage.

To. exhibit.

certayne / of which shalbe spoken of in
the tenure of Socage. ¶

che of
escuage

¶ And yf a man speke generally of es-
cuage / it shalbe vnderstande by the co-
mon speche of escuage / nat certayne
which is knyghtes seruyce. And suche
escuage draweth vnto hym homage /
& homage draweth vn to hym fealte /
for fealte is incydent to every maner
of seruyce / but to the tenure of franke
almopgne as it shalbe sayde here after
in tenure of franke almopgne. So as
he that holdeth by escuage holdeth by
homage fealte and escuage. ¶

Marke.

¶ And it is to be vnderstande that
whan escuage is so selled by auctoryte
of parlyament / every lord of whome
the lande is holden by escuage shal
haue the escuage so selled by the parly-
ament / bycause it is vnderstande by the
lawe that at the begynninge suche te-
nementes were gyven by the lordes to
holde by suche seruyces to defende theyr
lordes as well as the kynge / and to set
in quyet and rest theyr lordes and the
kynge of the Scottes as forsayde. And
so; that suche tenementes came by the

D. b.

of the

Ca. iii.

Distres
for escu-
age.

of the lordes / it is reason that they
haue the escuage of theyr tenementes.

¶ And the lordes in suche case may
distreynne for the escuage so assessed / or
they may haue the kynges wyttes dy-
recte vnto the Shyppes of the Shyres
to leuie suche escuage for them as is
appreth by the Regystr. fo. 88.

¶ But of suche tenauntes that holde
of the kyng by escuage / whiche were
nat with the kyng in Scotlande / the
kyng himselfe shal haue the escuage.

¶ Item in such case as afore sayde / where
the kyng maketh a voyage to all in
to Scotlande / and the escuage is as-
sessed by the parlyament / if the lord
distreynne his tenaunt that holdeth of
him by seruyce of an holl knyghtes fe
for the escuage so assessed. &c. And the
tenaunt pledeth and wyl auerre that he
was with the kyng in Scotland. &c.
by .xl. dayes / and the lord wyl auerre
the contrary / it is sayde that it shal be
tryed by the certyfycacion of the con-
stable of the kynges hoste / in wytyng
vnder his scale whiche shal be sent to
the Justyces. ¶ A. *.

Tryall.

¶ Homage

+ Homage/fealte/and escuage.

Cap. iiii.

fo. xxix.

A Enure by Homage/fealte/and
Escuage/is to holde by knyghtes **Ca. iiii.**
seruyce / And it draweth vnto hym
warde/maryage/and relefe. For whan
suche a tennaunt dyeth/ his heyre male
being within age of. xxi. yere/the lord
shal haue the lande holden of hym vn- **Warde.**
tyll the age of the heyre of. xxi. yere/
whiche is called playne or full age/for
that suche an heyre by þ vnderstanding
of tye lawe is nat able to do knyghtes
seruyce before the age of. xxi. yere

A : And also if suche an heyre be nat **The ful**
maryed at the tyme of the deth of hys age of a
auncester/than the lord shal haue the woman
warde/ and maryage of hym. But yf **A. xxv.**
suche a tennaunt dye/ hys heyre female **B. vi.**
beinge of the age of. xiiii. yere or more **fo. xxxii.**
than the lord shal nat haue the warde
nother of the lande / nor of the bodye /
for that a woman of suche age maye
haue an husbunde able to do knyghtes
seruyce. But yf suche an heyre female
be within the age of. xiiii. yere and nat
maryed at the tyme of the deth of her
auncester/than the lord shal haue the
warde

Ca. iiii. Warde of the lande holden of hym tyll
the age of such an heyre female of. xvi.
yere / For that it is gyven by the Sta-
tute of Westminster the fyrste. Ca. xxi.
that by two yere nexte folowynge the
sayde. xiii. yere / the lord may tender
a convenyent maryage withoute dys-
paragynge of suche an heyre female.
and if the lord do nat tender her suche
maryage within the sayde. ii. yere / thā
she at the ende of the sayde. ii. yere / may
entre & put out the lord. But if suche
an heyre female be maryed within the
age of. xiii. yere in the lyfe of the aun-
cestre / and the auncestre dye she beyng
within the age of. xiii. yere / the lord
shall have but the warde of the lande
tyl the ende of. xiii. yere of age of such
an heyre female. And than her hous-
bande and she may entre into the lande
& put out the lord / for this is out of y^e
case of the statute / In so muche that
the lord can nat tender maryage to
her that is maryed. &c. For before the
sayde estatute of Westmynstre the fyrst
such issue female that was within age
of. xiii. yere at the tyme of the deathe
of her

Homage fealte & cleuaght. **To. xxx.**
of her alicester / and after that she had
accomplished the age of. **xiii. yere** **Ca. lvi.**
without any tender of maryage to her
by the lord / such an heyr & female that
myght entre in to the lande / and put
out the lord as it appereth by the re-
herfall and by the wordes of the same
statute. So that y^e sayde statute was
made in suche case all for the aduun-
tage of the lord as it semeth. But yet
that at all tymes is vnderstande by
the wordes of the same statute / that
the lord shall nat haue the. **ii. yeres** af-
ter the. **xiii. yere** as it is aforesayde.

And note well that the full age of
heyr male and female after the com-
mon speche / is sayde the age of. **xxi.**
And the age of dyscrecyon is sayde the
age of. **xiii. yere** / for a chylde at suche
age which is wedded within such age
to a woman may agre to the maryage
or dysagre. **¶ : x : * : * : * : *** **The**

And yf the wardayne in chualtyr haue
mary ones hys warde within the age but ons
of. **xiii. yere** / and after the age of. **xiii.** the ma-
yre he dysagreeth to that maryage / it
is sayde by sum folke that the chylde hys
is nat warde.

Ca. lili. is nat holdé by the la we to be maryed
an other tyme by his wardeyn/for that
the wardeyne had ones the maryage
of hym/& therfore he was oute of his
warde/as cōcernyng the warde of his
bodye. And whan he had ones the ma-
ryage of him/and ones was out of his
warde/ he shall haue no moze the ma-
ryage of hym. In the same maner it
is if the wardeyne mary hym and the
wyfe dye/the chylde beyng within age
of. xiii. yere/ or. xxi. yers. And y^t the
chylde may dysagre to suche maryage
whan he come to the age of. xiii. yere/
it is proued by þ wardes of the statute
of Merton Ca. vi. that saythe thus.



(De dominis qui maritauerint illos
quos habent in custodia sua villanis &
aliis sicut burgences ubi disparagen-
tur/ si tales homines fuerint infra. xiii.
annos et talis etatis qui matrimonio
cōsentire non possint/ tunc si parentes
illius conquerētur / dominus ille amit-
tat custodiam illam vsq; ad etatem he-
redis. Et omne quomodum q; inde re-
ceptum fuerit conuertatur in commo-
dum

北8.102.

questid.

Ca. xiii. tyme to be put in v're / that these woꝝ
des shalbe vnderstande in suche maner

The cr. **Si parentes conquerantur.** .i. si paren
position tes inter se lamentantur) which is as
of these muche to say / that yf the cosyns of such
woꝝdes a chyldre haue cause to make lamenta
Si pa spon and complaynt among them for
rentes the same donee to the; cosyn so dys
conque peraged / which is in maner a shame
rantur to them all / than may the next cosyn
et. to whome the herytage maye nat des
sende / entre and put out the wardcyne

in chynalre. And yf he wyl nat; an
other cosyn of the chyldres maye do it /
and he to take the yssues and profytes
vnto the vse of the chyldre / and of that
yelde the chyldre / accompte whan he co
meth to his full age / Or els the chyldre
within age may entre hym selfe & put
out the wardcyne. &c. (Sed quere de hoc

E Also there is many other dyuers
dysperaginges / which be nat specified
in the same estatute. As yf the heyre
that is in warde be mardred vnto one
that hath but one fore / or one hande /
or is deformed or lame / or haupng any
horreble dyscase / or els a greate / and
contynue

Ca. iiii.

have double the value of ye maryage
by the force of the estatute of Merton
afoze sayde / as in the same statute is
more fully compysed. ¶:✱:✱:✱:

Castell
warde.

¶ Also dyuers tenantes holde of their
lordes by knyghtes seruyce / & yet they
holde nat by escuage / nor pay no escu-
age as they that holde theyr landes by
castell warde / that is to saye to kepe a
toure of a castel or a gate / or sum other
place by resonable warnynge whan
theyr lordes here tell y^e enemyes wyl
cum or becum into Englande. And in
many other cases a man may holde by
knyghtes seruyce / and yet he holder he
nat by escuage nor payeth no escuage
as shalbe sayde in the tenure of graunde
sergeaunte. But in all cases where a
man holdeth by knyghtes seruyces /
suche seruyces draweth to the Worde /
warde / and maryage. And if a tenaunt
that holdeth of hys lord by seruyce of
an holk knyghtes fee dye / his heyre be
yng at full age of. xxi. yere hys heyre
shall pay but o hys lord. L. s. for a re-
lese / and he that holdeth by the halfe fe
shall paye fyfte. s. ¶:✱:✱:✱:

¶ Also

Homage fealte & escuage. Fo. xxxiij.

Also if a man holde his lande of his
lorde by the scruyce of .ii. knyghtes fe-
es than the heyre at full age at the ty-
me of the deithe of hys auncestre / shall
pay to hys lorde. x. li. for relefe.

Ca. iiii.

§: *: §

Also yf there be graundfather/moder
and son / and the mother dyeth lyuyng
the father of the sonne / and after the
graundfader which hilde his lande by
knyghtes seruice dyeth seysed and the
lande descendeth to the sonne of the
mother as heyre to the graundefather
which is within age. In such case the
lorde shall haue the warde of the lande
but nat the warde of the heyre. For
that none shalbe in warde of hys body
lyuinge hys father / bycause the father
durynge hys lyfe shall haue the mary-
age of his heyre aparañt / and nat the
lorde. Otherwysc it is yf the father be
dede lyuing the moder / where y^e lande
holden in chyualtryc descendeth to the
sonne on the fathers syde. &c.

Lyuing
y^e fader
the sone
shal nas
be vnder
gouern-
naunce
of any
other.

Also yf a man be seysed of lande
whiche is holden by knyghtes ser-
uyce / and maketh feoffement in fee to
hys vñe

Li. ii.

Ca. iiii.

hys ble / and dyed sealed to the ble of
hys heyre within age / and no wyl by
hym declared / the lord shall haue a
wryt of ryght / of the body and the lāde
lykewyse if the tenant had dyed seyled
of the demesne. And yf the heyre be of
full age at the dech of his auncestre / in
suche case he shall paye relyefe / lyke
wyse if he had ben sealed of the demes-
ne and that is by p^c statute of. An. iiii.

H. vii. Cap. xvii. G : * : * : * :

¶ Also there is wardeyn in ryght chy-
ualry / & wardeyne in dede in chyualry
wardeyn in ryght chyualry / is where
the lord by cause of his lordshipp is se-
sed of the warde of the lande / and the
heyre (bt supra) wardeyn in dede in chy-
ualry / is where the lord in suche case
after hys seysyn graunteth by dede / or
without dede the warde of p^c lande or
of the heyre or of both / to an other mā
by force of whiche graunt the graunte
is in possession / than is the graunte
called wardeyne in dede. &c.

† Tenure in socage. Cap. b.

¶ Tenure in socage / is where the te-
naunt holdeth of his lord his te-
naunce

Socage.

fo. xxxviii.

naſſey by certayne ſeruyce for al maner
of ſeruyces / ſo that the ſeruyce be nat
knyghtes ſeruyce. As where a man hol
deth his lande of his lord by fealte and
certayne rent for al maner of ſeruyce /
or els where a man holdeth hys lande
by homage fealte / & certayne rent for al
maner of ſeruyces / for homage by hym
ſelfe maketh nat knyghtes ſeruyce.

Ca. v.

Alſo a man may holde of hys lord
only by fealte / & ſuche tenure is tenure
in ſocage / for euery tenure that is nat
tenure in chynalry / is tenure in ſocage
And it is ſayde that the cauſe wherfore
ſuche tenure is ſayde & hath the name
of tenure in ſocage is thus (Quia hoc
ſocagium idem eſt quod ſeruitium ſoce
Et hec ſoca ſoce / idem eſt q̄ caruca. s.
vne ſoke or one ploweth lande. And in
olde tyme / before the lymptacion of
tyme of mynde greate partye of the te
nauntes that hyld of theſe lordes by
ſocage ought to cum w^t theſe plowes
euery of the ſayde tenauntes by cer
tayne dayes in the yere / to epe & ſowe
the lordes lades of his owne graynes.
But for that ſuche warkes were done

E. iii.

for

Ca. b.

for y^e lyeuode and sustenance of they^r lordes / they were acquyted agaynst they^r lordes of all maner of seruyces.

And for thys that suche seruyce was done with they^r plowes suche tenure was called tenure in socage / And after that suche seruyces were chaunged in dyuers other maner seruice by consent of the tenautes and by the desyre of they^r lordes / that is to say into a pecy^r rent. &c. But yet the name of socage abydeth / and in dyuers places tenautes yet do such seruyce with they^r plowes vnto they^r lordes / so that all maner of seruices y^t be nat tenures by knyghtes seruyce be called tenures in socage.

A rule

¶ Also yf a man holde of hys lord by escuage certayne. That is to saye in suche fourme that whan escuage renneth and is assessed by the parliament to a more sum or to a lesse sum that the tenaut shall pay to hys lord but halfe a marke for escuage and neyther more ne lesse / to howe greate some or lytell some that the escuage renneth / in this case bycause the escuage is in certayne before

before that any escuage is assessed. &c. **Ca. b.**
 Suche tenure is tenure in socage/ and
 nat knyghtes seruyce. But where the
 some that the ternaunt shall pay for es-
 cuage is nat certayne/ that is to saye/
 where it may be that y^e some that the
 ternaunt shall paye for escuage/ may be
 at one tyme more & an other lesse after
 that it is assessed. &c. than suche tenure
 is tenure by knyghtes seruyce.

¶ Also yf a man holde his lande for to
 pay certayne rent to his lord for castel
 warde/ such tenure is tenure in socage
 But where the ternaunt selfe ought by
 hi or by an other to make castell warde
 suche is tenure by knyghtes seruyce. **An
 other dyf
 ference.**

¶ Also in all cases where the ternaunt
 holdeth of hys lord to paye to hym a
 ny certayne rent / that rente is called
 rente seruyce. **Rente
 seruyce.**

¶ Also in suche tenures in Socage /
 if the ternaunt haue yssue and dye/ bys
 yssue beynge within the age of. xiii.
 yere/ than the nexte frende of the heire
 to whome the herpytage maye nat des-
 cende / that haue the warde of the lan-
 de/ and of. **The ne-
 xte
 frende.**
 the

Ca. b.

the heyre / vnto the age of the heyre of
xiii. yere / and such wardayne is called
wardayne in socage. For yf lande dys-
cende to the heyre by the fathers syde
than the mother or sum other neyghe
cosyn of the mother syde shal haue the
warde. And if lade dyscende to the heyre
by the mother syde / than the father or
the next frende of the father syde shal
haue the warde of such lades or tenites
And whan þ heyre cometh to y^e age of
xiii. yere complet / he may entre & put
out his wardayn i socage & occupy the
lande hym selfe yf he wyll. And suche
wardayne in socage shal take no yssues
or profytes of such landes or tenemen-
tes to his owne vse / but only to the vse
and profyte of the heyre / & of that shal
yelde accompte / whan it pleaseth the
heyre / after that the heyre hath accom-
plyshed the age of xiii. yere. But suche
a wardayne vpon suche accompte shal
haue allowaunce of al his resonable cos-
tes and expences of all thynges. And
yf suche a wardayne marye the heyre
within age of. xiii. yere / he shal make
accompte to the heyre or to hys execu-
tours

The go-
uernour
shal giue
accöpte

Socage.

fo. cxxvi.

Ca. v.

tours of þ value of y^e mariage/ though
he toke nothyng for the value of the
mariage/ for that it shalbe arected his
owne foly / that he wolde marie hym
without takyng the value of the mari-
age / without he marie hym to seche a
mariage that is worthe in value / as
much as the mariage of the heyre. &c.

C Also if any other man that is nat a
nyghe frende. &c. occupie the landes &
tenementes of the heyre as wardeyne
in socage/ he shalbe compelled to yelde
accōpte vnto the heyre as well as hys
nexte frende. For it is no plee for hym
in a wryt of accompte to say/ that he is
nat hys nyghe frende. &c. But he shall
answer whether he occupieth the lan-
des or tenementes/ as wardeyne in So-
cage or nat. But inquire yf after that
the heyre haue accōplished the age of
xiiii. yere/ and the wardeyne in socage
continually occupieth the lande tyll
the heyre cometh to ful age of. xxi. yere
if the heyre at his full age shal haue an
accyon of accompte agaynst the war-
deyne of the tyme that he hath occu-
pyed after the sayde. xiiii. yeres / as an

¶ An

other

gouer-

noure,

¶ An

other

gouer-

noure,

¶ An

other

gouer-

noure,

¶ An

other

gouer-

noure,

E. v.

gaynst

Ca. 6.

gaynste hys wardeyne in socage / or as
gaynste hym as agaynste hys bayliffe.

¶ Also yf wardeyne in chyualry make
hys executors and dye / the heyre be-
yng within age . &c . the executors
shall haue the warde durynge the non-
age. But yf the wardeyne in Socage
make executors and dye / the heyre
beyng within age of . xiii. yere / hys
executors shall nat haue the warde
but an other nyghe frende to whome
the herytage maye nat dyscende shall
haue the warde. And the cause of dy-

A nota-
ble dys-
ference.

uersyte is / for that the wardeyne in
chyualry hath the warde to his proper
vse / and the wardeyne in socage hath
nat the warde to hys owne vse / but to
the vse of the heyre. And in suche case
where the wardeyne in Socage dyeth
before any suche accōpte made by him
the heyre is of that w^out remedy / for

The pre-
rogas-
tue of
y^e kinge

that no wyrt of accōpte lyeth agaynst
the executors / but only for the kinge

¶ Also the lord of wh^o y^e lande is hol-
den in socage after the death of his te-
naūt shall haue relefe in such forme. If
y^e tenaūt holde by fealte & certayn rent
to paye.

Socage.

fo. xxxvii.

to pay yerely. &c. If the termes of pay
ment be to pay by. ii. termes of y^e pere **Ca. v.**
or by. iii. termes of the pere/ the lord
shall haue of the heyre of hys tenante/as
much as the rent amounteth that he
shulde pay by pere. As if y^e tenant hyld
of the lord by fealte/ & .x. s. of rent pay **Reliefe**
able at certayn termes of the pere/ tha^t i tenure
the heyre shall pay to the lord. .x. s. for of **So-**
reliefe aboue this. x. s. that he shall pay **cage.**
for the rent. Take more in y^e statute of
Anno. xix. Henry ii. vii. Capitulo. xv.
And in suche case after the dethe of the
tenaunte such reliefe is due to the lord
incontinēt of what age so euer the hey
re be/ for y^e suche a lord may nat haue
the warde of the body nor the lande of
the heyre. And the lord in suche case
ought nat to abyde the paymēt of hys
reliefe after the termes: and dayes of
payment of the rent/ but he ought to
haue his reliefe incontynent. And ther
fore he maye incontynente dystayne
after the deathe of his tenaunt for the
reliefe. In y^e same maner it is where a
tenante holdeth of his lord by fealte/ &
by a pounde of comyn / or a pounde of
peper

Ca. b. peper by the pere and the tenaunt dye
y^e lord shal haue for his relese a pounde
of compn or a pounce of peper.

¶ In the same maner it is where the
whan tenaunt holdeth to paye by pere a cer-
the lord tayne number of capons or hennys/ or
shall dys a payre of gloues/ or certayne bushels
treyn in of whete & suche other maner thyng.
cōtynēt But i sum case y^e lord ought to abyde
& whan to dysstrayn for his relese tyl a certayn
he ought tyme. As yf the tenaunte holde of hys
to tary. lord by a rose or by a bushell of roses
to pay at the feast of saynt Iohn bap-
tyst/ yf suche a tenaunt dye in wynter/
than the lord may nat dysstrayne for
his relese. &c. vntyll the tyme that the
roses by the course of y^e pere may haue
theyr growing. &c. Et sic de similibus

Q. 111. **¶** Also if any peraduenture wyl aske
why a man may nat holde of his lord
by fealte only for al maner of seruyces
in so muche y^e whan the tenaunt shall
make hys fealte he shall swere to hys
lord that he shall do all seruyce due/
and whan he hath made fealte in such
case/ there is none other seruyce due.

Answer. **¶** To thys it maye be sayde that where
the

Hocage.

No. xxxviii.

the tenaunt holdeth bys lande of bys
lorde/ it behoueth that he ought to do
to bys lo;de sum maner of seruyce/ for
if the tenaunt nor his heyres ought to
do no maner of seruice to his lorde nor
to bys heyres/ than by longe tyme con
tynued it shuld be out of rememb;auce
of whom the lande was holden/ of the
lorde or of bys heyre or nat, and than
more ofter & more soner wyll men saye
that the lade is nat holden of the lorde
nor of his heyres than otherwyle/ and
vpon this the lorde shal lose his cliche
of the lande/ or percase other forfeiture
or profyte that he myght haue of the
landes. So it is reason that the lorde
and his heyres haue some seruyce done
vnto hym for a prose/ & a wytnes that
the lade is holden in franke Almoynge
as shal be sayde in franke Almoynge/
and bycause that the lorde wyll nat at
the begynning of the tenure haue any
other seruyces but fealte/ it is reason
that a man may holde of his lorde only
by fealte/ and whan he hath made bys
fealte he hath done all his seruyces.

C Also yf a man lette to an other for
terme

Ca. v.

where-
fore
sayth is
gyuen.

A rule.

¶ The
fourme
of a
wynt of
walte.

terme of lyfe certayne landes or tene-
 mentes without spekyng of any thing
 to yelde to the lessours yet he shall do
 to the lessour fealte/ for y^e he holdeth
 of hym. Also yf a leas be made to a mā
 for terme of yeres it is sayde the lessee
 shall do to the lessour fealte/ for that he
 holdeth of hym. And thys is proued
 well by the wordes in a wryt of waste
 when the lessour hath caused to bryng
 a wrytte of waste agaynst hym the
 whiche wrytte shall say that the lessee
 holdeth the tenementes of the lessour
 for terme of yeres/ So the wryt putteth
 a tenure betwene them. &c. But he y^e
 is ternaunte at wyll after the cours of
 the comon lawe shall nat make fealte
 by cause he hath no maner of sure es-
 tate. But otherwysc it is of ternaunte
 after the custom of the maner/ bycause
 that he is bounde to do fealte to his
 lord for two causes/ one is bycause of
 custome/ the other is bycause he for y^e
 taketh his estate in suche fourme to
 do fealte.:

Frankalmoygne.

Capitulo.vi.

Tennet

+ Franke almoygne. Ro. xxxix.

Tenure in franke almoygne / is Ca. vi.
where an abbot or a priour / or
an other man of relygion / or of ho-
ly church holdethe of hys Lorde in
franke almoygne / that is to saye in
latyn (In liberam elemosinam) that is
to saye in free almes. And suche tenure The be-
began fyrste in olde tyme in such forme gynnig
whan a man in olde tyme was seised of the
of landes or tenementes in his demesne fyrste
as of fee / and of the same lande enfeoffed gyfte in
an abbot and his couent / a priour and free al-
his couent to haue and to holde to the mes.
and theyr successours in pure & perpe-
tuall almes / or in franke almoygne or
by suche wordes to holde of the grauntoz
or of p^e lessor & his heires in free almes
In suche cases the tenementes were
holden in franke almoygne / and in the
same maner it is where the landes or
tenementes were graunted in olde tyme
to a deane & chapter & to theyr success-
sours / or to a person of a church and to
his successours or to any other man of
holy church / & to his successours in free
almes / if he had capacitye to take suche
graunces or feoffmentes. &c. And such as
holde

Ca. vi. holde in free almes be bounde of ryght
befoze god to do orysons/prayers/and
masses / and other dyuine seruyce for
the soules of the grauntours or feof-
ours or for the soules of theyr heyrers
whiche be deade/and for the prosperite
and good lyfe of them that be a lyue.

Tenaūt And for thys they doo at no tyme no
in free maner of fealte unto theyr lordes / for
almes that suche dyuine seruyce is better for
shall do them befoze god than any doing of fe-
no ho- alte/and also that these wordes fre al-
mage. mes / or franke almygne exclude the
lorde to haue any wordly or tempozall
seruyce/ but only to haue dyuine/ and
spyrituall seruyce to be done for hym.
ec. And yf suche that holde theyr tene-
mētes in fre almes or frāke almygne
wyl nat : or fayne to do suche dyuine
seruice as it is sayde/ y^e lorde may nat
dystryne them for the seruyce vndone
ec. bicause it is nat set in certayn what
seruices they ought to do/ but the lorde
may of that complayne to theyr ordy-
narpe / prayenge hym that he wyl set
punyshment and correctyon of that.
And also to prouyde and se that suche
neglygen-

Frank almoigne. Fo. xl.

neglygence be no more done/ & the ordynarye of ryght ought to do that. **Ec. La. bl.**

C But where an abbot or a priour holdeth of hys lord by certayn diuine scrupce in certayne to be done/ as for to singe a masse euery fryday in the weke for the soules. **Ec.** or euery yere at such a day to syng placebo and dyryge. **Ec.** or to fynde a chapelyne to syng masse **Ec.** or to distrybute in almes to an hundred poore men an hundred pence at such a day/ in suche case if luche diuine scrupce be nat done/ the lord maye dysstrayne. **Ec.** for that this diuine scrupce is in certayne by theyr tenure what y^e abbot or the priour ought to do. And in suche case the lord shall haue the sealte. **Ec.** as it semeth. And such tenure is nat sayde tenure in fre almeise / but it is sayde tenure by dyuine scrupce / for in tenure in fre almes or franke almoigne no mencyon is made of any maner certayne scrupce/ for none may holde in fre almes or franke almoigne if there be expressed any maner certayne scrupce that he ought to do.

Tenante by diuine scrupce.

A question.

C Also yf it be demaunded if the tenant in franke

F. i.

in franke

Ca. vi.

Q: An
answere

In franke marriage shal do fealle to the
donoure / or to hys heires before the
fourthe degre be palled . &c. it semeth
that ye / for he is nat lyke as to hys
entent to a tenaunte in free almes / or
franke almaygne / for that the tenaunt
in free almes shal do bycause of his te-
nure dyuyn scruyce for his lord as it
is aforesayde / and that he is charged
to do by the lawe of holy churche / and
for that he is excused and dyscharged
of fealte. But tenaunt in franke mari-
age dothe nat by hys tenure suche scr-
uyce. And if he do nat to his lord fealte
than he doth nat to hys lord any ma-
ner of scruyce neyther spirytual nor
temporal. whiche shulde be an incon-
uenyence and agaynst reason that a
man shulde haue estate of inherytaunce
of an other / and yet the lord shal haue
no maner of seruice of him as it semeth
and so it semeth that he shal do fealte
to hys lord before the fourthe degre
be palle. &c. And whan he hath done
fealte he hath done all hys scruyces .
And yf an abbot holde of hys lord in
free almes / and the abbot and hys co-
uenie

Frank almaygne. **Jo. xli.**
rent vnder theyr comon seale when the
same lande to a seculer man in fe sym- **La. vi.**
ple / in thys case the seculer man shall
do sealte to the lord / for that he maye
nat holde of his lord in fre almes / for
yf the lord ought nat to haue of hym
sealte / than he shall haue of hym no
maner of seruyce whiche shulde be an
inconuenyence where he is lord / and
the tenement is holden of hym.

Also if a man graunt at his daye to
an abbot or to a priour landes or tene-
mentes in fre almes or franke almaygne
these wordes free almes or franke als-
maygne be voyde / for that it is ordy-
ned by p^e statute which is callede **Quia**
a emptores terrarum / whiche statute **W. I.**
was made. **An. xvi. regis. E. primi** mynstre
That no man maye alyen or graunte **the. iii.**
landes or tenementes in fee symple to
holde of hym selfe / so that if a man sea-
led of certayne landes or tenementes /
whiche he holdeth of his lord by knygh-
tes seruyce and at his daye he graunteth
the same lande to an abbot. or in free
almes or franke almaygne / the abbot
shall

Ca. vi.

§. 12. C
iii. en
Assise.

*: The
kyng is
aboue
hys
lawe.

shall holde immediatly the same tene-
mentes by knyghtes seruyce of the lord
of his grauntoure bycause of the same
statute / so that no man may holde in
fre almes or in franke almaygne / but
yf it be by tytle of prescripcyon or by
force of a graunte made to sum of hys
predecessours before the same statute.
But the kyng may gyue landes or te-
nementes in fe symple to holde in free
almes or franke almaygne / or by other
seruyces for he is out of the case of the
statute / & note well that no man maye
holde landes or tenementes in fre almes
but of the grauntour or his heyres / and
that for the pryncipe of the gyfte / and
therfore it is sayde that if there be lord
mesne and tenaunt / and the tenaunt is
an abbot that holdeth of hys mesne in
franke almaygne / if the mesne dye with-
out heyre / than the menalte shall cum
by eschere to the sayde lord aboue / and
the abbot than shall holde of hym im-
mediatly onely by fealte / and shall do
him fealte for that he may nat holde of
hym in franke almaygne. &c.

¶ And note well where that suche a
man

Franke almaygne. fo. xlii.
man of relygion holdeth his landes of
his lorde in frey almes. &c. his lorde is
bounde by the lawe to acquyte him of
euery maner of seruyce that any lorde
aboue hym wyl demaunde or aske of
the same tenauntes. And if he acquyte
hym nat but suffereth hym to be dys-
trayned. &c. than he shal haue agaynst
his lorde a wyrt of mesne / and recouer
hys damages and costes of hys sute.

Ca. vi.

A wyrt
of mesne

Homage auncestrell.

Ca. vii.

Ca. vii.

Tenure by homage auncestrell
is where a tenaunt holdeth hys
lande of hys lorde by homage / and
the same tenaunte and his auncestre
whose heyre he is hath holde of the
same lande of y^e sayde lorde and of his
auncestres / whose heyre the lorde is
from tyme out of mynde by homage /
haue done homage vnto hym / whiche
is called homage auncestrel by cause of
the contynuaunce whiche hath ben by
tytle of prescripcon in the tenauncy /
in the blode of the tenaunte / and also
in the lordshyp in y^e blode of the lorde
And such seruyce by homage auncestrel

is: wate
rante.

liii.

draweth

Ca. vii.

Acquy-
taunce.

*Dys-
clamer.

draweth to hym warranty if the lord e
that is alpye hath receyued & homage
of suche a ternaunte / he ought to war-
rant his ternaute whan he is impleded
of y^e landes holden of him by homage
auncestell. And also suche scrupce by
homage auncestell draweth to hym
acquytaunce / that is to saye / the lorde
ought to aquyte his ternaunt agaynst
all other lordes aboue hym of euery
maner of scrupce. And it is sayde that
yf suche ternaunt be impleded by a (p^re-
cipe quod reddat) &c. and he voucheth
hys Lorde to warranty / whiche co-
mynth in by proccesse / and asketh of the
ternaunte what he hath to bynde hym
to warranty / and he sheweth howe he
and hys auncestres whose heyre he is /
haue holden the lande of the vouche
and of hys auncestres whose heyre he
is by homage fro tyme out of mynde /
yf y^e lorde which is vouched receyuet
none homage of the ternaunt nor of any
of hys auncestres / the lorde than yf he
wyl may disclame in the lordshyp / and
so put out the ternaute of his warranty /
but if the lorde which is vouched hath
receyued

Homage auncestrell. fo. xliii.
 receyued homage of the tenant/ or of
 any of hys auncestres/ than may he nat
 dysclayme but he is boude by the lawe
 to warrant the ternaunte/ & than yf the
 ternaunt lese the lande in defaute of the
 vouche he shal recouer i value against
 the vouche of the landes or tenementes
 that the vouche of the landes and tene-
 mentes p^r the vouche had at the tyme
 of the vouche or any tyme after. And is
 is to wete that in every case where the
 lorde may dysclayme in hys lordeshyp
 by the lawe & court of recorde/ & of that
 wyl dysclame/ his seignory is extincte
 and the tenant shal holde of the lorde
 nexte about the lorde which so dyscla-
 meth. But if an abbot or a prioure be
 bouched by force of homage auncestrel
 &c. though he hathe never taken ho-
 mage. &c. yet he can nat dysclayme in
 thys case nor in none other case / for
 they can nat deuote that thyng in
 free which hath bene vested in theyr
 house. (Pasche decimo Edwardi
 quarti): ¶: * : * : ¶: * : * : ¶: * : * :
 ¶ Also if a man that holdeth his lade
 by homage auncestrell aleneth he hys
 lande

Ca. vii.

**Recone
ry en va
lue.**

A rule.

f.iii.

lande

Ca. vii.

lande to an other in fee the alpen shall
do homage to his lorde. But he holdeth
nat of his lorde by homage auncestrel
for that the tenaunty was nat conty-
nued in the bloode of the auncestres of
the alpen / nor the alpen shall neuer
haue the warrantie of hys lande of his
lorde for that the contynuaunce of the
tenaunty in the tenaunte and in hys
bloode by the alpenacyon is dysconty-
nued / and so se that the tenaunte that
holdeth his lande by homage auncestrel
of his lorde / and suche a tenaunte alpe-
neth in fee / though that he take estate
of the alpen agayne in fee / he holdeth
the lande by homage / but nat by ho-
mage auncestrell. ¶ : * : * : :

**A man
shall
make**

¶ Also it is sayde that yf a man holde
his lande of hys lorde by homage and
sealte and he hath made homage and
sealte vnto his lorde / & the lorde hath
issue a son and dyeth / and the lordshipp
dyscendyth to his son. In this case the
tenaunte whiche dyd homage to the
father shall nat do homage to the sone
for that whan a tenaunte hath made
ones homage to his lorde / he is excused

for

Homage anneestrell. Jo. xliiii.

for terme of hys lyfe to make homage
to any other heyre of p^r lozde. But yet
he shall do fealte to the sone and heyre
of his lozde/ though he that he made fe-
alte to hys father. ¶: x: * ¶:

Ca. vii.
homage
but ons
in hys
lyfe.

C Also yf the lozde after the homage
to hym made by his tenaunte/ graunt
the seruyce of his tenaunt by dede vnto
an other in fee, and the tenaunt attor-
nyth. &c. the tenaunt shall nat be com-
pelled to do homage/ but he shall do fe-
alte though he dyd fealte before to the
geauntoure / for fealte is incydent to
euery attornement whan the lordshyp
is graunted. But if a man be seased of

a manour/ and an other man holdeth
his lande of hym as of the manoure &
foresayde by homage/ the whiche hath
done homage to hys lozde whiche is
seased of the manoure / yf after that a
stranger bynge a p^rcipe quod red-
dat agaynste the lozde of the manoure
and recouereth the manour agaynste
hym and sueth excecucion. &c. in thys
case the tenaunte shall ones agayne do
homage to hym that recouereth the
manour for p^r the state of him whiche

A rule.

whan a
ma shall
make
twyse
homage

A. b.

receyved

Ca. vii.

Dyuer-
syte.

whan
the te-
naunte
shal nat
be dy-
creyned
whan
he doth
no ho-
mage.

receyued homage before/ is defeted by
the recouere. And it shal nat lye in the
mouthe of the tenaunte to falsespe. or
defette the recouere which was agais-
t hys lord / and so se the dyuersyte. In
thys case where a man cometh to hys
lordshyp by recouere / & where he cometh
by dyscent or graunte of the seynour.

¶ And if a man tenaunte which ought
by hys tenure to doo homage to hys
lorde come to hys lord and say to him
syr I owe to do vnto you homage for
the tenres that I holde of you / and I
am redy to do you homage for y^e same
tenemētes / for the whiche I pray you
that ye wpll now receyue it / and yf y^e
lorde than refuse to receyue it / than aft-
such refuse the lord may nat distrayne
the tenaunte for the homage / before
that the lord requyre the tenaunte to
do homage & the tenant refuse to do it.

¶ Also a man may holde hys lande by
homage auncestrell and by escuage or
by other knyghtes scrupce as well

as he myght holde his lande by
homage auncestrell in

Socage.

Graunde sergeaunte. fo. xlv.

Ga. viii. **G**

Ga. viii.

*

Tenure by graunde sergeaunte
is where a man holdeth hys lan-
des and tenementes of ourc souerayne
Lorde the Kyng/ by the seruyce whi-
che he ought to do in his owne proper
person/ as to bere the Kynges banner
or his speare or to lede hys hoste/ or to
be hys marshall/ or to bere hys sword
before hym at his coronacyon/ or to be
his sewer at his coronacyon/ or his kar-
uer/ or butler/ or to be one of his cham-
berlaynes of hys receyte of hys esche-
quer/ or to do such seruyces. &c. and the
cause wherfore suche seruyce is called
greate sergeant/ is for that it is more
honorable and worshipful/ and digne/
than is the seruyce of the tenure by es-
cuage for he that holdeth by escuage is
nat lymitted by hys tenure to do any
more especyall seruyce than any other
that holdeth by escuage ought to do.
But he that holdeth by graunde ser-
geaunte/ ought to do a specyall seruyce
to the kyng. But he that holdeth by
escuage ought nat to do. **G**:*

GThe
moste
hono-
ra-
ble holde

GAlso

Ca. viii

Reliefe

C Also if the tenaunt whiche holdeth by escuage dye/hys heyre beyng at full age/ yf he helde by a knyghtes fee/ the heyre shal pay but an. **l. s.** for hys reliefe as it is ordeyned by the statute of Magna carta. **Ca. ii.** but he that holdeth of the kynge by graunde sergeaunt and dyeth/ his heyre being of full age/ shal pay vnto the kynge for his reliefe the value of his landes or tenementes by yere/beside the charges and repyses whiche he holdeth of the kynge by graunde sergeaunt. And it is to wete that (seriantia) in laten is seruicium/so (magna seriantia in laten is seruicium) that is to say a grea'te seruyce.

C Also those whiche holde by escuage ought to doo theyr seruyce oute of the realme but they that holde by graunde sergeaunt for the moste parte ought to doo theyr seruyces within the realme.

C Also it is sayde that in the marches of Scotlande some holde of the kynge by cornage that is to saye to blowe an horne for to warne the men of the countrey. **sc.** whan they here that the scottes or other enemies wyl cum or entre

in to

Graunde sergeaunte. **fo. xlv.**
in to Englande. &c. whiche serupce is
graunde sergeaunt. &c. but if any tenat
holde of anye other lord than of the
kyng by such serupce of cornage that
is nat graunde sergeaunte / but it is
knyghtes seruite / and draweth to him
warde / maryage / and reyse / for none
may holde by graunde sergeaunt but of
the kyng onely. **¶ : * : * : ¶ :**

Ca. viii

Also a man may se in the .xl. yere of
Henry the fourthe that Tockayn than
beyng chyef baron of theschequer cam
into the comon place byngynge with
hym a copy of recorde in these wordes
(*Talis tenet tantam terrā de domino
regis per seriantiam ad inueniendum
vnum hoīem ad guerram infra qua-
tuor maria*) &c. That is to say / suche a
man holdeth so muche lande of our so-
uerayne lord the kyng by sergeaunty
to warre within the fourte sees / and he
demaunded whether he was graunde
sergeaunty or petyte sergeaunty / and
Hanke than sayde that it was graunde
sergeaunty / for that it was serupce to
be done by the body of a man / & yf that
he may nat fynde a man to do the ser-
upce

Ca. viii wyce for hym he muste do it hym selfe.
Opinio To whom the other Justices assayed/
 Lokayn than sayde/the tenaunte in
 thys case shall paye reyse to y^e value
 of the lande by yere / to whiche was
 none answer. And note that all they
 that holde of the kyng by graunde
 that holde of the kyng by graunde
 sergeant/hold of the kyng by
 knyghtes seruyce / and the
 kyng of that shall haue
 warde/marpage
 and re-

yse. But the Kyng shall nat
 haue of them escuage yf they
 holde nat by escuage.

C Petyte sergeaunte.

G: Cap. ix.:

Cap. ix

Tenure by petyte sergeaunte is
 where a man holdeth hys lande
 of oure soueraygne lord the kyng to
 yelde vnto hym yere a Bowe / or a
 Sworde / or a Dagger / or a knyfe / or a
 spere / or a payre of gloues of mayle / or
 a payre of spores gylt or an arrowe /
 or dyuers arrowes / or to yelde suche
 other smalle thynges touchyng the
 warre

Petyte sergeaunte. fo. rlii.
warre. And suche serpyce is but socage
in effecte for that that the ternaunte by
hys tenure ought nat to go nor no do
any thyng in hys owne proper perso.
touchyng the warre. But to yelde and
pay perely certayne thynges vnto the
kyng/as a man ought to pay a rente
: And note that no man may holde
lande by graunde sergeaunte / nor by
petyte sergeaunte but of the kyng.

Ca. ix.

Petyte
serge
aunte
is
socage
i effecte.

Burgage. Cap. x.

Tenure in burgage is where an
auncyēt borough is / of the whiche
the the kyng is lord / and they
that haue tenementes within the bor-
rough holde of the kyng theyr tene-
mentes that every ternaunte for hys te-
nement ought to paye to the kyng a
certayne rente by yere . &c. And suche
tenure is but tenure in socage / and the
same maner is where an other lord
spyrituall or temporall is lord of such
a borough / & the ternautes of the tenes
in suche a borough holde of theyr lord
to paye eche of them perely an annuall
rent / and it is called tenure in burga-
ge / for that the tenementes within
the

Cap. x.

the

Co. 2.

the boroughe be holden of the lord of the boroughe by certayne rente. &c. And it is to wete that the auncient townes called borughes be the moſte auncient and eldeſte townes y^e be within En- lande for the townes that now be cy- tyes or countres in olde tyme were bo- roughes and called boroughes / for of ſuch olde townes called borughes cum theſe burgeſes of the parlyamēt to the parlyament whan the kyng hath ſo- moned hys parlyament. ¶ : * : ¶

**Burge-
ſes of y^e
parlyamē-
ment.**

**Custom
of tow-
nes.**

¶ Also for the gretter parte of ſuche borughes haue dyuers customes / and vsages whiche be nat had i other tow- nes / for ſum borughe hath ſuch cuſtōe that if a man haue iſſue of many ſōnes and dyeth / y^e yongest ſon ſhal inheryte all the tenētes whiche were his fathers w in the ſame borughe as he yre vnto hys father by force of the cuſtome the whiche is called borughe Englyſhe.

¶ Also in ſum borughes by y^e cuſtome the wyfe ſhal haue for her dower al the tenēmētes whiche were her huſbādes

**Deuylſe
by cuſ-
tom**

¶ Also in ſum borughe by the cuſtom a man may deuylſe by hys teſtamente hys

his landes and tenementes whiche he hath in fee simple within the same borough at the tyme of hys deth / and by force of suche deuylse to whom suche deuylse is made / after the deth of the deuylsoure may entre in the tenementes to hym deuylsed / to haue and to holde to hym after the forme & effecte of the deuylse without any lyuete of sepsyn therof to be made to hym. Cap. 7.

¶ Also though a man may nat graunt nor gyue hys tenementes to hys wyfe durynge y^e couerture / for that that his wyfe and he be but one persone in the lawe / yet by suche custome he may deuylse by his testament his tenementes to his wyfe / to haue and to holde to her in fee simple / or in fee taylor / or for terme of lyfe / or of yeres / for that suche deuylse taketh none effecte but after the dethe of the deuylsoure. And if a man at dyuers tymes make dyuers testaments and dyuers deuylses. &c. yet the laste deuylse and wyll made by hym shall stande and abyde. B. iij. C. ii.

¶ Also by suche custome a man may deuylse by hys testamente that hys

Burgage.

Cap. x. executours may alpen and sell the tenementes that he hath in fee simple for a certayne sum to dystribute for the soule / in this case thoughe the deuyseoure dye seased of the tenementes and the tenementes descende vnto his heyre yet the executours after the deith of the testatoure maye sell the tenementes so deuyseid and put out the heyre & therof make a scoffement aleynacyon and estate by dede or without dede to them to whom the sale is made vnto.

Howe **A** And so may ye se here a case where
a man a man may make a laweful estate / and
maye yet he hath nought in the tenementes
make at the tyme of the estate made / and the
laweful cause is for that / that the custome and
estate vsage is suche. *Quia consuetudo ex*
where *certa causa rationabili vtitata priuat*
he hath *cōmunē legē.* For a custome vsed vpon
nothige a certayne reasonable cause barreth
in the the comon lawe. And note well no cus-
lande. tome is to be alowed but such custom
as hath byn vsed by tittle of prescrip-
Marie. tion / that is to say / from tyme wherof
is no mynde. But dyuers oppnyons
haue byn of tyme out of mynde and of
tittle

tytle of prescripcyon whiche is al one in the lawe / for some men haue sayde that the tyme of mynde shalbe sayde for tyme of lymptacyon in a wytte of ryght / that is to saye / fro the tyme of kynge Rycharde the fyrste after the conquest/as is gyuen by the statute of westmynster the fyrste/for that a wytt of ryght is the mooste hyest wytt in his nature that may be. And in suche a wytt a man may recouer hys ryght of the possession of hys auncestres of the mooste auncyent tyme that any man may by any wytt by the lawe. And in so muche that it is gyuen by the sayde estatute that in suche a wytt none shal be herde to aske of the seysou of hys auncestres of more longer tyme than of the tyme of kynge Rycharde afore sayde/therfore this is proued that conynualice of possession or other customes and vsages vscd after the same tyme is tytle of prescripcyon/and this is certayne. And other haue sayde that well and truly it is that seysyn & conynualice after the lymptacyon. &c. is a tytle of prescripcyon as is afore sayde

* The opynios of the tytle of prescripcyon in tyme of mynde.

westm. .i. La. xxxviii.

Burgage.

Cap. x. and by the cause aforesayde. But they haue sayde that there is also another tytle of prescripcyon y^e was in the comon lawe before any estatute of lymptacyon of wyttes. &c. and that was where a custome or vsage or other thig had byn vsed fro tyme wherof mynde of man lonneth nat to the contrary / & they haue sayde that this is proued by the pledyng where a man wyll plede a tytle of prescripcyon of custome. &c. he shall say that suche custome hath byn vsed fro tyme whereof the memozy of men lonneth nat to the contrary / that is as much to say / whan such a matter is pleted that no man than alpye hath herde one prose to y^e cōtrary / nor hath no knowlege to the contrary / and in so muche that suche tytle of prescription was at the comon lawe & nat put out by none estatute. Ergo it abyde as it was at y^e comon lawe / & the soner i so muche y^e the sayde limitaciō of a wytt of ryght. &c. is of so longe tyme passed.

In I deo quere de hoc. & many other customes & vsages haue such aūcyēt boroughs
quire. Also every borough is a towne / but
not

Burgage.

fo. II.

nat to the contrary/ more shalbe sayde **Cap. x.**
of customes in the tenure of villenage.

Uyllaynage. **Cap. xi.**

Tenure in villinage is most pro- **Cap. xi.**
perly whan a byllayne holdeth
of his lord to whom he is byl-
layne certayne lādes & tenemētes after
the custome & maner ozels at the wyll
of his lord/ and to do hys villaine ser-
uyce/ as to bere/ bypunge/ and cary out
the donge and fylthe of the lord vnto
the lande of hys lord there to laye it/
caste it / and sprede it abroad vpon the
lande / and to do suche other maner of
seruyce/ and sum free tenauntes holde **Howe**
theyr tenementes after the custome of some
certayne manours by such seruyces / & holde in
theyr tenure is called tenure in bylle- **villenage**
nage/ and yet they be no byllaynes/ for ge and
no lāde holdē in byllenage or byllayne be no
landes/ or any custome rpyng of the bylley-
lāde shal neuer make free man byllayne. **nes.**
But a byllayne may make free lande to
be byllayne lande vnto his lord/ as if
a byllayne purchase lande in fee simple
or in fee taylor/ the lord of the byllayne
may entre in to the lande and put out
G. iii. **hys**

Uyllenage.

Cap. xi. his byllayne & hys hepyes for ever and after the lord if he wyll may let the same lande to the byllayne to holde in byllenage. Also if a feffement be made to a certayne person or persones in fee to the vse of a villayne/ or if a villayne or any other persons be enfeffed to the vse of a byllayne / what estate so ever the byllayn hath i the vse/ in fee taylor for terme of lyfe / or yerres/ the lord of the byllayne maye entre in all those landes & tenementes lyke wyse as if the byllayne had ben alone seysed of the demesne. And that is by the statute of An. xix. h. vii. But if a free man wyll take any landes or tenementes of hys lord by suche villayne seruyce/ that is to say to pay a fyne to his lord for his maryage or for the mariage of his son or his doughter/ thā shal he pay suche a fyne for the maryage. &c. for that it is the foly of suche a free man to take in suche fourme lādes or tenementes to holde of his lord by suche bōdage. yet that maketh nat the fre man a villain.

Finis

Also every byllayne eyther he is byllayne by prescrypcyon/ that is to saye/ he and

he and his auncestres haue ben vylaynes tyme out of mynde / or he is vylayne by his owne cōfession in courte of recoroe . But if a free man haue dyuers yssues / and after confesseth hym selfe to be vylayne to another i courte of recorde yet his issues which he hath before the confession be free / but the yssue which he shall haue after the confession. &c. shall be vylaynes .

Also if a vylayne purchase landes and alpeneth the same landes to another before hys lordes entre / than the lord may nat entre for it shall be iudged his owne folgy that he entred nat whā the lande was in his vylaynes hādes / And so it is of hys other goodes / for if the vylayne bye & sell or gyue goodes to another before that the lord sealeth the good; than the lord may nat seale them / but if the lord before any suche sale or gyfte cometh within the house of the vylayne where suche goodes be / and there openly amonge the neyghbours clayme the same goodes to be his / and so seisseth parcel of the same in name of sepsyn of all the goodes . &c. .

B. iii.

This

Cap. xi.
of a vylayne.
E. ii. b
iii.

what
maner
of lande
purchas
sed by a
vylayn
is good.

Uyllenage.

La. xi.
A good
seysen.

Thys is sayde a good seysen in the lawe. And the occupacyon that the bylayne hath after suche clayme in the goodes shall be taken in the lawe in the ryght of the lorde. But yf the kynge haue any bylayne that purchaseth landes and alpyeneth before that the kynge entre / yet the kynge may entre in the lande / in whose handes the lande cometh to. Or yf the bylayne bye or sell dyuers goodes before that the kynge sease the goodes. yet the kynge may sease them in whose handes that euere they be. Quia nullum tempus occurrit regi / for no tyme runneth agynste the kynge.

Also yf a man let lande to a nother for terme of lyfe sayyng the reuersyon to hym / and a bylayne purchaseth of the lessour the reuersyon / in thys whā the case it semeth that the lorde of the bylayne may incontynēt come to y^e land shall and clayme the same reuersyō as lorde clayme^r of the same bylayne / & by thys clayme reuersiō the reuersyon is incontynent in hym / and as for in any other fourme he maye not nowsō. come to the reuersyon for he may not entre

entre vpon the tenaunt for terme of
lyfe/and yf he ought to abyde tyl after
the dethe of the tenaunt for terme of
lyfe / than hapely he myghte come to
late/for perauēture the byllayne wyl
graunte or alpen it to a nother in the
lyfe of the tenaunt for terme of lyfe.
In the same maner it is where a by-
layne purchaseth the auouſon of a
chyrche full of an incombent/that the
lord of the villaine may cū to the ſayd
church & clayme the auouſon. And by
this clayme the auouſon is in hym/
for yf he abyde tyl after the dethe of the
incombent & than preſent his clärke
to the ſayd church. Then in the meane
tyme the byllayne myght alpen the
auouſon .&c. and ſo put out the lorde
from his preſentacyon.

¶ Also there is a byllaine regardaunt
and a byllayne in groſſe. Uyllayne re-
gardaunt is as yf a man be ſeaſed of
a manoure to whiche a byllayne is re-
gardaunt/ and he that is ſeaſed of the
ſayde manoure or they whoſe eſtate
he hathe in the ſame manoure haue
ben ſeaſed of the ſayde byllayne and of

Ca. xi.
purcha-
ſed by
his byl-
layne.

Diuiſiō
Villain
regar-
dant.

Vyllenage.

Ca. xi. his auncestres as vyllains regardaunt
Villayn to the manour fro tyme out of mynde.
i grosse. And vyllaine in grosse is where a man
is seased of a manour to the whiche a
villaine is regardaunt and he graun-
teth the same vyllain by his dede vnto
a nother/ than he is vyllayne in grosse
and not regardaunt.

A for-
me of
prescrip-
cyon.

E Also yf a man and hys auncestres
whose heyre he is/ hath ben seased of
a villaine and of his auncestres as vil-
laynes in grosse tyme out of mynde /
such ben villaynes in grosse. And note
well that of such thynges which may
not be graunted nor alpyened without
dede or tyme/ a man that wyl haue such
thynges by prescripcyon may not o-
therwyle prescribe but in him and his
auncesters whose heyre he is / and not
by these wordes in hym and in those
whose estate he hath / for that/ that he
may not haue theyr estate without
dede or wrytyng/ the which behoueth
to be shewed to the courte yf he wyl
haue any aduauntage of thys / and be-
cause that the graunte and the alpe-
nacyon of a villayne lyethe not with-
out dede or other wrytyng/ A mā may

not prescrybe in a byllayne in grosse **Ca. xi.**
 without shewynge of wytyng but in
 him selfe that claymeth the byllayne
 and in his auncesters whose heyre he
 is. But of those thynges whiche be re
 gardaunt oz appēdaunt to a manoure
 oz to other landes oz tenementes / a
 man may prescrybe that he and they
 whose estate he hathe were seased of
 the manoure oz of suche landes oz
 tētes as regardaūtes oz appendaū
 tes to y^c manour oz to suche lādes and
 tētes . &c. from tyme out of mynde/
 and the cause is for this that suche a
 manoure landes and tenementes may
 passe by alpenacyon without dede. &c.
 And it is to wyt y^t nothyng is named **Regar.**
 regardaunt to a manour but a byl- **dant**
 laine. But certayne other thynges as Appen-
 auousons and comune of pasture . &c. **daunt**
 be named appendauntes to the ma-
 noure oz to other landes & tenemētes.
¶ Also yf a man in courte of recorde **In**
 knowlege him selfe to be villaine that **grosse.**
 neuer was byllayne befoze / suche one
 is byllayne in grosse.
¶ Also a man that is byllayne is cal-
 led villaine / and a woman that is byl-

Wyllenage.

Ca. xi. layne is called nyet / as a man that is
Niese & outlawed is called an outlawe / and a
wayue. woman that is outlawed is called a
wayue.

Iusti. Also yf a bylayne take a free womā
li. i. to wyfe / the yssue betwene them shall
Tit. de be byllaynes. But yf a nyet take a free
igenus man to husbāde / theyr issue shalbe fre
Suffi. And that is contrary in the lawe cy-
cit aut uile / for there he saythe that / *partus*
liberam *sequitur ventrem.*

fuisse Also no bastarde may be bylayne /
matrem but if that he wyll knowlege him selfe
to be a bylaine in courte of recorde / for
Spuri⁹ he is in the lawe *Quasi nullius filius* /
as the son of no man / for that he may
be inherytour to no man.

Also every bylayne is able and free
to sue all maner of accyons agaynst
every person excepte agaynst his lorde
to whome he his bylayne / and yet in
certayne thynges he maye haue a
gaynst his lorde an accion of apele for
the dethe of his father or of hys other
auncestres whose heyre he is. Also a
nyet whiche is rauysched by her lorde
may haue apele of rape agaynst hym.
Also

Also if a villayne be made executour to a nother / and the lord of the villayne was indetted to the testatour in a certayne some of money the whiche is not payde / in this case the villayne as executour to the testatour shall have an accyon of det against his lord bycause he shall nat recouer the dette to his propre vse / but to the vse of the testatour.

Cap. xi.
whan
the by-
layne
shall
have ac-
cion of
det or
trespas
agaynst
hys
lord

Also the lord may not take out of the possession of such a villayne that is executour of the deades goodes / and if he do the villayne as executour shall have an accyon of trespass agaynst his lord for the same goodes taken and recouer damages to the vse of the testatour. But in all these cases it behoueth the lord whiche is defendaunt in suche accyons to make protestacyon that the playntife is his villayne / or elles the villayn shall be fraunchysed though the matter be founde for the lord agaynst the villayne as it is sayde.

Protes-
tacyon.

Also if a villayne sue an accyon of trespass or other accyon agaynst his lord

My Menage.

Cap. xi. lord in one Myre / and the lord sayth yf
he shall not be answered for that he is
byllayne regardaunt to hys manoure
in another Myre / & the playntyf saythe
that he is franke and of fre estate and
no byllayne / thys shall be tryed in the
Myre where the plantyf hath concey-
ued his accyon / and not in the Myre
where the manoure is and this is in
fauor of lyberte as it is adiudged. **M.**
xl. E. iii. And for thys cause was made
a statute in the .ii. yere of Rycharde
the seconde / the tenure of whiche en-
sueth in suche forme.

**The
wordes
of the
statute.**

Also for that where many villaines
and nyefs as wel of great lordes as of
other folke spyrytuall or temporal flee
and go in to cytyes and places fraun-
chysed as the cyte of Londō and other
lyke places / and sayne dyuers sutes a-
gaynst theyr lordes bycause they wold
make them selfe to be enfranchysed /
it is accordyd and assented that the
lordes nor none other shall be forbar-
red of theyr byllayns bycause of theyr
answere in the lawe. By force of whi-
che statute yf any byllayne wyl sue
any

any maner of accyon to hys owne vse
in any thyng where it is harde to trye.
et. agaynst hys lord / hys lord may
chose to plede that the playntife is his
vylayne / and to plede another matter
in barre / & yf they be at issue & the issue
be foude for the lord / thā the vylayne
is vylayne as he was before by force
of the same estatute. But if the issue be
foude for the vylayne / than is the
vylayne franke and free for that the
lord toke not for hys ple that the vyl-
ayne was his vylayne / but toke it by
protestacion.

Also the lord may not mayme his
vylayne / for yf he mayme his villaine
he shall of that be endyted at the kyn-
ges sute. And yf he be of that attaynt /
he shall for that make greuous fynne
and raunsome to the kynge. But it se-
meth that the villayn shall not haue by
the lawe any apele of mayme agaynst
his lord / for in appele of mayme a mā
shall not recouer but hys damagys. And
if p^e villaine in that case recouer dama-
ges agaynst his lord & hath therof ere
cucio / the lord may take that / that p^e
vylayne

where-
fore a
villaine
may
nat sue
an ap-
pell of
mayme
agaynst
his
lord.

Wyllenage.

Ca. xi.

villaine hath in execution fro the villain / & so the recouere standeth voyde.

CAlso if the villayne be demaundaunt in an accyon royall or playntyfe in an accyon parsonall agaynst his lord / if the lord wyl plede in dysabilite of his persone he may not make playne defence / but he shal defend but the wrong and the force and demaunde iugement if he shal be answered / and shewe hys matter by and by howe he is villayne and demaunde iugement if he shal be answered.

**Non
habilitate
villain**

CAlso .vi. maner of men there be agaynst whome if they sue accyons. &c.

Jugement may be asked yf they shal be answered. One is where the villayne sueth accyon. &c. agaynst hys

An outlawe.

lord / as in case aforesayde. The seconde is where a man outlawed vpon an accyon of dette or trespass / or vpon any other accyon or indytement / the tenaunt or the defendaunt may shewe all the matter of the recorde and the outlawry / and demaunde iugement yf he shal be answered by cause that he is out of the lawe to sue any accyon duringe

tyng the tyme that he is outlawed.

The thyrde is where an alpen bozne **La. 11.**

out of the alegyaunce of our souerayn

lorde the kynge yf suche alpen sue any

accyon roiall or personall/ the tenaunt

or defendaunte may saye that he was

borne oute of the kynges alegyaunce

and aske iudgement / yf he shall be an-

swered. The fourthe is where a man

by iugement gyuen agaynst hym vpo

a wyrtte of (premunire facias) .cc. is

out of the kynges proteccion / if he sue

any accyon and the tenaunt or defen-

daunte shewe all the recorde agaynst

hym/ he may aske iugement yf he shal

be answered for the lawe and the kyn-

ges wyrttes ben the thynges by whi-

che a man is protecte and holpen/and

so durynge the tyme that a mā in such

case is out of the kynges proteccion /

he is oute of the helpe and protecte by

the kyngs lawe or by the kyngs wyrt.

The fyfth is where a man is entred &

professyd into religyon/ yf suche a per-

son sue an accyon/ the tenaunt or de-

fendaunt may shewe that suche one is man

entred in to religyon in suche a place /

An alie
borne.

A man
condemned in
premy-
nure.

A rely-
gious
man.

Ca. xi.

to the order of saynt Benet / and is there a monke professed / or in the order of tryers minours / or prechers and is there a frere professed / & so of other orders of relygion . &c. and aske iugemente yf he shall be answered / and the cause is for thys / that when a man entreteth into relygion and is professed / he is deade in the lawe . And hys son / or next colen incontynente shall inheryte hym as well as though he were deade in dede / and whan he entreteth into relygion he may make his testament / and hys executors / and they maye have an accyon of det due to him before his entre in to relygion / or any other accyon y^e executors may have / as yf he were deade in dede . And yf he make none executors whā he entreteth in to relygion / than the ordinary maye comyt the administracyō of his goodes to other / as yf he were deade in dede . The. vi. is where a man is accursed by the lawe of holy church / and he sueth an accyon real or personal / the tenaūt or defendaunt may plede that he that sueth is accursed / & of thys it behoueth hym

**A man
Exco-
muni-
cate.**

Wyllenage. fo. lvi

him to shewe the byshopes letters vnder
his seale / witnessynge the accusynge
and aske iugement of the shal be
answered. &c. but in this case (if the de
maundaunt or playntife can nat deny
it) the wyte shal nat abate / but the iu
gement shal be that the tenaunt or de
fendaunt shal go quyte without daye
for this that whan the demaundaunt
or playntife hath purchasid his let
ters of absolucion / and shewyth them
to the court / he may haue a resomous
or a reattachement vpon his orygy
nall after the nature of his wyte. &c.
but in the other cases the wyte shal abate.
&c. if the matter shewen may nat
be gayne sayde. *G. x. x. G. D.*

¶ Also if a villayne be made a seculer
preste yet his lord may seale hym as
his villayne and seale his goodes. &c.
But it semeth p^r if the villayne entre
into religio & is possessed. &c. that the
lord may nat take hym nor seale hym
for that he is dede in the lawe. And no
more than a fre mā may take any fe to
his wife p^r lord may nat take ne seale
the wyfe of the husbande. But his re
medy

Ca. xli

H. xi.

H. ii.

H. ii.

medy

Ca. xi.

remedy is to haue an accyon agaynste
the husbände/for that he toke his wyf
to wyfe without his wyll and licence.
And so maye the lordc haue an accyon
agaynste the souerayn of the house/
that takethe and admyteth hys byl-
layne to be professed in the same house
without tyence and wyll of hys lordc
sc. and shall recouer hys damages to
the value of the byllayne / for he that
is pessed monke. sc. shall be a monke/
and as a monke shall be taken for tme
of hys lyfe natural except he be deray-
ned by the lawe of holy church/ and he
is holden by hys religyon to kepe hys
cloyster. and if the lordc may take hym
oute of hys house / than he shulde nat-
lyue as a dede person nor after hys re-
ligyon whiche shulde be incontynente
sc. For if there be wardyn in chyualry
of bodye and of lande of a chylde with-
in age/ if the chylde whan he comethe
to the age of. xiiii. yeres entre in to re-
ligyon and is professed/ the wardeyne
hathe none other remedye / as to the
warde of the body/ but a wyrt of cauf-
shemet of warde agaynst the souerayn
of the

The fa-
uoure of
religyo.

of the house. And if any beinge of full
age / that is cosyn and heyre unto the
chylde entre in to the lande / the war-
deyn hath no remedy as to the warde
of the lande bycause that the entre of
the heyre of the chylde is lawefull in
suche case. ¶: * : * : * : *

¶ Also in many dyuers cases the lord
may make manumysyon and enfran-
chysynge to his byllayne. Manumys-
syon is pperly whan the lord maketh
his dede to his byllayne to enfran-
chyse him by this worde (manumitte-
re) which is as muche to say / as extra
manum et extra potestatem alterius
ponere) as to put him out of the hādes
and p power of an other. And for this
that by suche a dede the byllayne is
put out of the hande and power of his
lord / it is called (manumysyon. And
so euery maner of enfranchysynge
made to a byllayne may be sayde a ma-
numysyon. Also yf the lord make to
his byllayne an oblygacion of a cer-
tayne sum of money / or graunte unto
him by his dede an annuite / or let him
by his dede landes or tenementes / for

Ca. vi.

Manu-
missio
expli-
cita

Manu-
missio
impli-
cita.

Ca. xi.

Ca. xi.
franchp.
syng.
Causa.

Ca. xi.
franchp.
syng.
Causa.

Ca. xi.
franchp.
syng.
Causa.

terme of yeres/ the villayne is enfranchysed. Also yf the lord make a feoffement to hys villayne of any landes or tenementes by dede / or without dede in fee simple/ fee taylor/ or for terme of yeres / and deliuereth vnto hym the seysyn/ this is an enfranchysing/ but yf the lord make to hym a lease of landes or tenementes to holde at the wyl of the lord by dede or without dede / this is no enfranchysing/ for that he hath no maner of certayne nor surety of hys estate / but that the lord maye put hym out whan he wyl. Also yf a lord sue agaynst hys villayne (a preceptum quod reddat) yf he reconer / or be non supte after apparaunce / thys is a manumission / for thys that he maye lawfully entre in to the lande without suche suyt. In the same maner it is yf he sue agaynst his villayne an accoun of det/ or of accompte/ or of couenaunt or of trespass/ or suche other/ this is an enfranchysing. &c. for thys that he maye enpryson hys villayne/ and take his goodes without suche suyt. But if the lord sue his villayne by appelle of felony

Wyllenage. **fo. lix**

felony/thys is none enfranchysinge
to the byllayne though the matter of
the appele is founde agaynst the lorde
by cause that the lorde maye nat haue
the byllayne hanged withoute suche
sute. But if the byllayne were nat en-
doyted of the same felony before the ap-
pele sued agaynst him and is acquitted
of the felony so that he recouer dama-
ges agaynst the lorde for the false ap-
pele. And in thys case the byllayne is
enfranchysed by cause of the iugement
of damage that was gyuen to hym a-
gaynst his lorde. And more cases and
matters there be/by the whiche a byt-
layne may be enfranchysed agaynst
his lorde (**Hed de illis quere**) Also yf a
lorde of a manoure wyl prescrybe that
it hath bene accustomed within his ma-
nour tyme out of mynde that euery te-
naunt w^tin the same manour that ma-
ryeth his doughter to any man w^tout
lycence of the lorde of the manour shal
make fyne to s^r lorde for y^e tyme being
this p^rscripciō is boide for none ought
to make such fynes but only byllaynes

fo. liii.

Ca. xli.

Ca. xli.

Extra.

**Prescrip-
cio.**

Ca. xi.

**The co-
stome of
gauele
kynde.**

**The co-
stome of
borugh
englysh
Iniqua
prescrip-
tio.**

for every fre man may frely mary his
doughter to whom it pleaseth hym and
his doughter. And bycause that this
prescripcyon is agaynst reason / suche
prescripcyon is voyde. But in the countrey
of Kente of landes holden in Gauele-
kynde wherby the custome / and tyme
out of minde / y^e chyldren males ought
euently to inheryte / this custome is a
lawable / for this that it is with some
reason bycause that every sonne is as
greate a gentylman / as the elder sone
and bycause of that more greate ho-
nour and valour shal growe than if he
had nothyng by his aūcestres / where
pauertie he myght nat so growe. &c.
Also where by custome called bo-
rughe in englyshe in sum borughe the
yonger son shal inheryte all the tene-
mentes. &c. This custome also stādeth
with reason / bycause that the yonger
sone yf he lacke father and mother by-
cause of his yonge age may lesse of all
his brethrene helpe hym selfe. &c. But
if a man wyl prescrybe that if any cas-
teyl were vpon the demenes of his ma-
noure there doynge damage / that the
lorde

lorde of the manour for p^e tyme being
hath vled hym to destrayne them/ and
the dystresse to retayne tyll fyne were
made to hym for the damages at hys/
wyll / thys prescripcyon is voyde by
cause it is agaynst reason p^e if wronge
be done to a man/ that he therof shulde
be his owne iudge for by suche way yf
he had damage but to the valur of an
halfpeny he myght assesse / and haue
therof an. c. li. which shulde be agaynst
all reason / and so suche prescripcyon
or any other prescripcyon vled yf it be
agaynst all reason/ this ought nat no
wyll nat be alowed before Judges.

(Quia malus vsus abolendus est)

Thre manner of rentes there be.

That is to say/ rent seruyce/ rent
charge / and rent seke. Rent seruyce/
is wherc a man holdethe hys lande of
hys lorde by fealte/ and certayne rent
or by homage fealte and certayne rent
or by other seruyce and certayne rent.
And if rent seruyce at any daye/ that it
ought to be payde/ be behinde p^e lorde
may dystayne for that of com^e ryght

Diuisio

Rent
seruyce.

Ca. xii.

And yf a man nowe wyll gyue landes
or tenementes to an other in the taylor
yeldyng to hym certayne rent by pere/
he of comon ryght may dysstrayne for
the rent behynde/ thowghe that suche
gyfte was made wthout a dede by cause
that suche rent is rent seruyce / but in
suche case where a man bypon suche a
gyfte or lease wyll receyue to hym rent
seruyce. It behoueth that y^c receypt
of the landes and tenementes be in the
donour or in the lessoure / for yf a man
wyll make a feoffement in fee / or wyll
gyue lades in the taylor the remayndre
ouer in fee simple withoute a dede re-
seruyng to hym certayne rent / suche
reuecyon is in the donour / and such a
tenaunt holdeth his lande immediatly
of the lord of whom his donour helde
And thys is by force of the statute of
westm. ii. Ca. i. Quia emptores terra-
rum) for before y^c same estatute if one
made a feoffement in fee simple by dede
or without dede yeldyng to hym & to
his heires certayne rent / this was t^{er}
seruyce / & for this he myght dysstrayne
of comon ryght. And if he made no re

The
comon
lawe by
fore the
statute.

uercion of any rent nor of any seruyce
yet the feoffee helde of the feoffoure by
such seruyces as the feoffour helde cures
of his lord nexte above. But if a man
by dede endented at a day make suche
a gyfte in the taylor p^e remayndet ouer
in fe. &c. or a feoffement in fe / & by the
same endenture reserueth to hym & to
his heyres a certayn rent / & that if the
rent be behynde that it shalbe lesull to
hym and to his heyres to distrayne. &c.
suche rent is rent charge / by cause such
lades & tenementes be charged of such di
stres by force of p^e wryting only / & nat
of comon ryght. And if suche a man in
suche a dede endentid / reserue to him &
to his heyres certayn rent without any
such clause set or put in p^e dede that he
may distrayne. &c. than suche rente is
rente secke / by cause that he can nat
distrayne to haue the rent / yf it be de
nied by p^e same distres / and if he was
neuer leased in this case of the rent /
he is without remedy as shalbe sayde
hereafter. Also yf a man leased of cer
tayne lande graunt by his dede pol / or
by endenture a yerely rente p^esumyng
out of the same lande to an other in fe
simple

La. xii.

* Rent
charge.

* Rent
secke.

Ca. xii.

**— Aus-
nupte.**

**DEMO
pell.**

E Also yf a man buye y^e an other shall
haue rente charge yffynge out of the
landes

land; but he wyl nat y^e his person shal
be charged in a maner by a wyrt of an
natie than he may haue suche a clause
in y^e ende of his dede (proviso semper
quod p^{re}sens scriptum nec aliquod in eo
specificato non aliquali^{ter} se extēdat ad
onorandum personam meā per breue
de annuali redditu. Sed tantummodo
adonorandū terrā & tenementa p^{re}dicta /
de annuali redditu p^{re}dicto) And than
is the lande charged and the person of
the grauntour dyscharged.

Ca. xlii.

proviso.

¶ Also yf a man make suche a dede in
suche maner that if. A. of. B. be nat y^e
rely payde at the fest of Christmas for
terme of hys lyfe of. xx. s. of lawfull
money / that than it shalbe lefull to the
sayde. A. of. B. to distrayn for it in the
manour of. J. &c. thys is a good rent
charge / bycause that the manour is
charged of the rent by way of dystres /
And yet the persō hym selfe that made
suche a dede is dyscharged in this case
of an accyon of annuite / bycause y^e he
graūted nat by hys dede any annuite
to the sayde. A. of B. but graūted only
y^e he may dystrayne for hys annuite.

Also

Ca. xii

Extyn-
guythe
ment.

Also yf a man haue a rent charge to
him and to his heyres / yssuyng out of
certayne lande / yf he purchase any
parcell of the lande to hym and to his
heyres / all the rente is extyncte / and
adnuiled by cause y^e rent charge may
nat in such maner be appoyoned but
yf a man that hath the rent seruyce pur-
chase parcell of the lande / wherof the
rent is / thys shall nat extyncte all / but
for the porcyon: for the rent seruyce in
suche case may be appoyoned / and
shall be appoyoned after the value
of the lande / but if a tenant holde his
lande by seruyce to yelde to his lord
yereley at suche a feast an horse / or an
hauke / or such thyng semblable / yf in
suche case the lord purchase parcell of
the lande / the seruyce is gone / by cause
that suche seruyce may nat be seuered
nor appoyoned / but yf a man holde
his lande of an other by homage / feo-
alte and escuage / & by certayne rente /
yf the lord purchase parcell of y^e lande
ec. In that the rent shall be appoy-
ned as is aforesayde / but yet in thys
case the homage & fealte abydeyth hole
to the lord / for the lord shall haue the

homage and fealte of his tennant/for
the remenaunte of landes / and tene-
mentes holden of hym / as he had be-
fore. &c. for this that suche seruyces be
no annuell seruyces / and maye nat be
appoycyoned. But the escuage may
shalbe appoycyoned after the quanty-
te and rate of the lande.

Ca. xii.

¶ Also yf a man haue a rent charge /
and his fader purchaseth parcel of the
tenementes charged in fee and dyeth /
and that parcell dyscendeth to his son
that hath the rent charge / now the
rent charge shalbe appoycyoned after
the value of the landes as is aforesayde
of rente seruyce / bycause that suche a
porcyon of the lande purchasid by the
fader cometh nat to the sonne by hys
owne dede / but by discent / and course
of the lawe. ¶ A: †: A: *:

Rent
charge
appoy-
cyoned

¶ Also if there be lord and tennant /
and the tennant holdeth of hys lord
by fealte and certayne rent / and the
lord graunteth the rent by hys dede to
an other. &c. keepyng to hym y^e fealte &
the rent / now such rent is rent secke to
the graunte / for this that the tennantes
be nat

En. xii

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Nota.

Uyfelton. Lib. 2.
be nat holden of that graunte of the
rente / but be holden of the lord that
recepueth to hym fealte. And in the
same maner it is where a man holdeth
hys lande by homage / fealte / and cer-
taynerent / yf the lord graunt the ret
sauing to hym the homage / suche rent
after suche graunte is rente secke / but
where landes or tenementes ben holden
by homage / fealte / & certayne rente / yf
the lord wyl graunt y^e homage of hys
lande by his dede to an other sauynge
to hym the remenaunt of the seruyces
and the tennaunte attourneth to hym
after the forme of the graunt / nowe in
this case y^e tennaunt holdeth his lade of
the graunte / & the lord that graunteth
y^e homage shal nat haue but the rent
as rente secke / & shall neuer dystayne
for the rente / for this that neyther ho-
mage / nor fealte nor escuage maye be
sayde secke / for he that hath or ought
to haue of his tennaunte homage / or fe-
alte / and escuage / may of comon ryght
dystayne for it / yf it be behynde / for
homage / fealte / and escuage bene ser-
uyces by whiche landes & tenementes

be holden and be suche that in maner
may be taken but as seruyces. But o-
therwyle is of rent that was ons rent
seruyce/for this that whā it is seuered
ec. by the graunte of the lorde fro the
other seruyces/it may nat be sayde rent
seruyce/for this that he hath nat to it
fealte/whiche is incydent to euery ma-
ner of rente seruyce / and for thys it is
sayde rent secke. ¶:✱:✱:✱:

E Also yf a man let lande to an other
for terme of lyfe reseruyng to hym cer-
tayne rente/ if he graunt y^e rent to an
other sayng to hym the reuercyon of
the lande so litten by his dede. ec. such
rent is but rent secke/for this that the
graunte hath nothyng in the reuer-
cyon of the lande. But if he graunt the
reuercyon of the lande to an other for
terme of lyfe & the tenaunt attorneth.
ec. than hath the graunte the rente as
rent seruyce by cause he hath the reuer-
cyon for terme of lyfe. And so it is to be
vnderstande that yf a man gyue lādes
or tenementes in the taylor reseruyng
to hym and bys heyres certayne rente
or let lande for terme of lyfe reseruyng

Ca. xii.

certayn rent/ if he graūt the reuercion
to an other and the ternaunt attorneth
all the rent and seruyce passeth by the
worde of the graunte of reuercion/ for
this that all the rent & seruyce in such
case be incydentes to the reuercion &
passe by the graunt of reuercion. But
though he graūt the rent to an other
the reuercion passeth nat by such graūt
&c. And so note well the diuersite. And
it is holden. p. xii. E. iii. But it is ad-
judged. An. xxvi. li. assisarum/ where as
the seruyces of the ternaunt in tale
were graunted / that that was a good
graunt/ yet nat withstandinge the re-
uercion remaynes. ¶:¶:¶:¶

¶ Also if there be lordc mesne & ternaunt
and the ternaunt holdethe of the mesne
by the rent of. v. s. and the mesne hol-
deth ouer by. xii. d. yf the lordc aboue
purchase the ternauncy in fee/ then the
seruyce of the menauncie is extynct / for
thys that whan the lordc aboue hath
the ternauncy he holdeth of the Lordc
next aboue hym. And yf he ought to
holde it of hym that was mesne/ than
he shulde holde one felie ternauncy im-
medyally

Maric.

medyatipe of dyuers Lordes whiche
 shulde be inconuenient / and the lawe
 wyll soner suffer a myschete for that
 than an inconuenience / and for thys
 the seignory of the menalte is exynct
 but in so muche that the tenaunt heide
 of the mesue by .v. s. & the mesue heloe
 but by .xii. d. so that he had more auan-
 tage by .iii. s. than he payde to his
 lord / he shall haue the sayde .iii. s. as
 a rent secke yerely of the lord that pur-
 chased the tenauncy. ¶ : * : *

Ca. xii.



¶ Also yf a man that hath the rent secke
 is ones seysed of any percel of the rent
 and after if the tenaunt wyll nat paye
 the rent that is behynde / this is his re-
 medy. It behoueth hym to go by hym
 selfe or by an other to the landes / and
 tenementes wherof the rent is issuing
 and there to demaunde the arrerages
 of the rent / and yf the tenaunte denye
 to pay it / thys denyng is a dysseysyn
 of the rente. Also yf the tenaunte at
 the tyme be nat redy to pay it / this is a
 denyng & a disseisin. Also if the tenaunt
 nor none other be dwelling vpon the

¶ Res
 medy.

Ca. xii.

Alia.
Equi-
uocum







landes or tenementes whan he asketh
the arrerages. &c. this is a denyng in
lawe and a dysseysyn in dede / and of
suche dysseisyns he may haue an assyse
of nouel disseisyn agaynste the tennant
and recouer the seysyn of the rent and
the arrerages and hys damages and
costes of his wytte and of his ple. &c.
And yf after suche recouere the rent be
an other tyme denyed hym / thā he shal
haue a redysseysyn and recouer double
damages. And it is to be had in mynde
that this name assyse is (Equiuocum)
For sumtyme it is taken for a iury / for
in the begynnyng of the recorde of as-
syse of nouel dysseysyn the recorde shal
begyn thus (Alia veni recogni) which
is to say that (Juratores veni recogni)
and the cause is / for thys that by the
wryt of assyse / it is comaunded to the
Myrcer qd faciat. xii. liberos et legales
hoies de viceneto. &c. videre tenementū
illud & noia eoz in breuiari / & qd sum p
eos / p bonos sum q sint coram iusticia
rius. &c. pati ide facere recogni. &c. And
for this that by force of suche an origi-
nall wryte a panel by force of the same
wryte

Wentes. **Jo. lrbí.**
wryt ought to be retorned. &c. it is said
in the beginnyng of the recorde in assise **Cap. xii**
Assisa beñ recogn. &c. Also in a wryt of
ryght it is comonly sayde that the te-
naunt may put hym in god and in the
great assyse. &c. Also there is a wryt in
the Regyſter called (*de magna assisa*
eligenda) so is thys a goode profe that
this name assyse ſōtyme is put for the
iury/ and ſōtyme it is taken for all the
wryt of assyse/ and after p^r entent it is
moſt properly & moſt comōly taken as
aſſyſe of nouell dyſſeiſin is taken for al
the wryt of aſſiſe of nouel dyſſeiſin. In
the ſame maner aſſiſe of comō paſture
is taken for all the wryt of aſſyſe of co
mon paſture & aſſyſe of mozt daſceſter
and aſſiſe of darrayn pſentmēt. &c. but
it ſemeth that the cauſe is why ſuche
wryttes at the beginnyng were called
aſſyſes/ for this p^r by euery ſuche wryt
it is cōmaunded to the ſhyreſſe that he
ſomon. xii. &c. which is as much to ſay
that he ought to ſomon a iuri. &c. and
ſomtyme aſſyſe is taken for an ordy-
nauce for to ſet certayne thynges in a
certayne rule & diſpoſicion/ as an ordy-
naunce

Cap. xii

Seyfen
of rent
secke.

naunce that is entred in the annuycens
estatures is called assisa panis & serui-
cie. Also if there be lord and tennaunte
and the lord graunteth the rent of hys
tenaunt by dede to an other sayng to
him the other seruyces / and the tennaunt
attorneth / thys is a rent secke as it is
afoclayde. But if the rent be denyed
hym at the nexte daye of payment / he
hath no remedy / for thys that he had
nat therof any possession. But yf the
tenaunt whā he attorneth to y^e graunte
or after wyll gyue a peny or an halfe-
peny to the graunte in the name of sey-
syn of the rente / Than yf after at the
nexte day of paymēt the rent be denied
hym he shal haue assyse of nouel dyssai-
syn / and so it is if a man graunt by his
dede a yereley rent yssuyng out of hys
lande to an other. &c. If the grauntour
than after paye to the graunte. i. d. or
an halfpeny in the name of sey syn of
the rent than after the fyrst day of pay-
ment the rent be denyed / the graunte
may haue assise or els nat. Also of rent
secke a man may haue assyse of mort-
dauicester or a wyrt of ayel or colinage
and all other maner of accyons reals

as the case lyethe as he maye haue of
any other rent. : : : : : 

Cap. xii

Also there be.iii. causes dysseysyn of
rent scrupce/that is to say rescous/ re-
pleuen/ & enclosure. Rescous is whan
the lord distrayneth in p^e lande holde
of hym for hys rente behynde/ yf the
dystres be rescued fro hym/ o^r p^e lord
come vppon the lande and wolde dys-
trayne & the tennant o^r an other man
wyl nat suffre hym. &c. Repleuyn is
whan the lord hath distrayned / & re-
pleuin is made of the dystresse by wyrt
o^r by playnte. &c. Enclosure is yf the
landes and tenementes be so enclosed
that the lord may nat come wⁱⁿ the
lande and tenementes for to distrayne
& the cause why suche thynges so done
be dysseysyns made to the lord/ is for
thys by suche thynges the lord is dys-
turbed of p^e mene by whiche he ought
to haue cōme to his rent. And.iii. cau-
ses be of disseysyn of rent charg/ p^e is to
say rescous/repleuyn/enclosure/& denier/
for denieng is a disseyn of rent charge
as it is aforseyde of rēt secke/ & .ii. cau-
ses be of disseysyn of rēt secke/ p^e is to say

Three
maners
of dis-
seysyn.

Item. enclosure

Cap. xii

enclosure/ & denier/ & yet it semeth that
there is an other cause of disseisin of al
the.iii. rentes aforesayde/ that is whan
the lord is goyng to the lande holde of
hym for to dystayne for the rent being
behynde/ & the tennant bering this en-
countreth hym / & forstalleth hym the
way with force & armes / & manacleth
hym in suche forme y^t he dare nat com
to the lade for to dystayn for his rent
behinde. &c. for poute of deth or bodyly
hurte/ this is a disseisin for this y^t the
lord is disturbed of the meane wherby
he ought to come by his rent/ & so it is
if by suche forstallyng and manassylng
he that hath rent charge or rent secke
is forstalled / or dare nat come to the
lande to aske the rent behynde.

The thyrde boke.

Parceners. Cap. i.

Cap. i.
Diuision
Parceners by
the com-
mune
lawe.

Parceners be in.ii. maners y^t is to
say pceners after y^e course of y^e co-
mō law/ & pceners aft the custom
pceners after y^e course of y^e comō law
be where a mā or a womā be seased of
certayne landes or tenementes in fe sym-
ple or fe taylor and hath none yssue but
doughters & dyeth/ and the tenente dis-
sende

Perceeners.

fo. lxxiii.

Cap. i.

ende to þe daughters/ & the daughters
entre in to the landes and tenementes
so to them descended / than they be cal
led perceeners / and be but one heyre to
theyr auncestre / and they be called per
ceeners / for this that by the wyte that
is called (Breue de participacione fa
cien da) the lawe wyll constrayne then
that participaciō shalbe made among
them / and if there be. ii. daughters to
whom the lande descendeth then they
be called. ii. perceeners / and yf they be
iii. daughters they be called. iii. perce
ners / and. iiii. daughters. iiii. perceeners /
& so forth / and if a man seased of landes
in fe symple or in fee taylor & dye with
out yssue of hys body / and the tenures
descende to hys sisters / they be perce
ners as is aforesayde . In the same ma
ner it is where he hath no sisters but
the lande descendeth to hys Auncles /
they be perceeners / but yf a man haue
but one daughter she may nat be sayde
perceener but daughter and heyre. And
it is to wyte that partycyon betwene
perceeners may be made in dyuers ma
ners / one is whan they agre to make
partycyon and make partycyon of the

**Dyuers
maners
of parce
ners.**

Cap. 1.

tenementes / as yf there be .ii. perces-
ners to deuyde betwene the the tenes-
mentes in. ii. partes every parte by hi
selfe in seueralte of euen valuc / and yf
there be. ii. parccners to deuyde the te-
nementes in. iii. partes in seueralte. As
nother particyon there is to chose by
agrement betwene them / and certayn
of theyr frendes to make the partycyō
betwene them of the landes and tenes-
mentes in the forme aforesayde. And
in such cases after such particyon / the
elder doughter shall chose fyrste one of
the partyes so deuyded whiche she wyl
haue for her parte. And than the se-
cōde doughter after her an other parte
ec. yf it so be that there be manye sy-
sters. ec. yf it be nat that they ne be o-
therwysc agreed betwene them / for it
may be agreed betwene them that one
of theym shall haue suche tenementes
and an other suche tenemente. ec. with-
oute any suche fyrste eleccyon / and the
part that the elder syster hath is cal-
led in laten (enitia pars) but if the par-
senors agree that the elder syster shall
make

Enitia
pars.

Parceners. fo. lxx.

make partycyon of the tenementes in
the forme aforesayde / and yf the doo / **Cap. l.**
than it is sayde that y^e elder syster shal
chose the laste parte after erve of her
other systers. An other partycyon and
a lottynge there is / as yf there be .iii.
parceners / and after suche partycyon
made of the landes / euery parte of the
lande is by it selfe wyrtten in a tytell
scrowe / and is couered all in were in
maner of a tyttell ball so that no man
may se the scrowe / than is the .iii. bal
les of ware put in a bonet to kepe in
the handes of an indifferent man / and
than the elder doughter systre shal put
her hande in y^e bonet which shal take
a ball of ware and the scrowe within
the same ball for her purparty / & than
the seconde systre shal put her hande
in the bonet / and shal take an other /
add so then the thyrde systre the thyrde
de ball. &c. and in this case it behoueth
eche of them to holde theym to theyr
chaunce and alottment. ¶

¶ Also an other partycyon there is
as yf there be .iii. parceners / and
they

Cap. 1.

Jud
gement

they wyl not agree yf pertycyon shall
be made betwene theym / than one of
them may haue a wyte of participa-
cione faciende (agaynst the other. iii.
sisters or. ii. may haue a wyte of per-
ticipacione faciende agaynst yf other /
or the. iii. agaynst the. iiii. at the elec-
cyon and whan iugement shall be ge-
uen vpon suche a wyte the iugement
shall be suche the pertycyon shall be
made betwene the parties / and the
hyrte in his proper persone go to the
landes and tenementes. &c. and that
be by the othe of. xii. trewe men of hys
hapywke. &c. shall make pertycyon
betwene the parties the one party of
the same land; shall be assygned to the
playntiffe or to one of the playntiffes /
and an other parte to an other. &c. nat
makynge mencyon in the iugemente
of the eldest sister more thā of the yon-
geste / and of the pertycyon that be
dathed / thys done be shall make notyce
to the Justices. &c. vnder his scale and
the scales of the. xii. &c. and so in thys
case may ye se that the elder sister shal
nat haue the fyrst electyon. &c. but the
hyrte

Perceeners.**Jo. lxx.**

Wherbyfe shall assigne the parte that he shall have . ec. and it maye be that the wherbyfe whil assigne first a parte to the yongest syster and the laste parte to the elder / and note well that perticyon by agreement betwene perceeners may by the lawe be made amonge them aswel by worde without dede / as by dede.

Cap. 3.

¶ Also if .ii. meses dyscende to .ii. perceeners / and the one mese is worth by pere. xx. s. and that other but . x. s. by pere / in thys case perticyon maye be made betwene the in suche forme that the one perceener shal haue y^e one mese and the other perceener shall haue the other mese / and he that shall haue the mese of. xx. s. and his heyres shall pay a yerely rente of. v. s. p^rsumyng oute of the same mese to the other perceener & to his heyres for ever / bycause that every of them shal haue even in value and suche perticyon made is goode y^e nough / and the same perceener that shall haue the rent of. v. s. and his heyres may distrayne for the rent of com^o ryght in the same mese of the value of xx. s. yf the rent of. v. s. be behynde at

* **xx. 3.**
E. iii.

**Went
charge**

any

Cap. i.

¶ dys-
treyned
by co-
mon
ryght.

any tyme in whose handes so euer the
same mese cometh though there was
neuer wyttynge made of it betwene
theym/ in the same maner it is of par-
tycyon of al maner of landes and tene-
mentes. .sc. where suche rente is reser-
ued to one or to dyuers parcceners vpon
suche partycyon. .sc. but suche rent is
nat rente seruyce / but is rent charge
of comon ryght hade and reserued for
egaltie of the partycyon/ and note wel
that none be called parcceners by the
comon lawe but women or the heyres
of women/ and which come by landes
and tenementes by dyscent / for yf sy-
sters purchase landes or tenementes
of thys they ben called Joyntmentes
and nat parcceners. Also yf. ii. parcc-
ners of lande in fe simple make party-
cyon betwene them. .sc. and in the pte
of that one valueth moche more than
the parte of the other / yf they were at
the tyme of partycyon of full age/ that
is to say of. xxi. yere/ than they alwaye
shall abyde and neuer be defeted / but
if tenementes wherof be made parti-
ons be to them in fe tale / and the pte
the

the one hath is myche better in perely
 balue thā the parte of the other. How
 be it y^t they be excluded duringe theyz
 liues to defete the particpon / yet if the
 parcener that hath the leste parte in
 balue hath yllue and dyeth / the yllue
 may disagre to the particpon and en-
 tre and occupye in comon that other
 parte that allotted to her aunt / & so the
 aunt may entre and occupy in comon
 y^t other parte allotted to her syster as
 no particpon therof had ben made. &c.

¶ Also if .ii. parceners of tenementes
 in fee take hulbandes / and they and
 theyz hulbandes make pertycyon be-
 twene them yf the parte of the one be
 lesse in perely balue than the parte of
 that other duringe the lyues of y^e hus-
 bandes the particpō shalbe in his force
 & strenght yet after the deeth of the hus-
 bāde the wyfe y^t hath the lesse pre. &c.
 the same wyfe or woman may entre in
 her systers parte as it is aforesayd & de-
 fete the particpō / but if the particpō so
 made betwene thē were such y^t at tyme
 of lotmēt were egal of perely balu thā
 it may nat after be defeted i such cases

Also

Cap. 1.

Also if there be .ii. parteners and y^e younger of them be within the age of .xxi. yere / and partycyon is made by twene them so that the partye that is allotted to the younger is lesse in value then the parte of that other. In this case the younger durynge y^e tyme of her none age / and also whan she cometh to full age of .xxi. yere may entre in the portcyon of her syster allotted. &c. and defete the partycyon / but such a personer ought to take hede whan she cometh to full age that she ne take to her owne vse all the profytes of the tencementes to her allotted / for that she agreeth to the partycyon at such a age / in whiche case the partycyon that stonde and abyde in his force & strengthe. &c. but peradventure the profytes of the halfe she may take / leuyng the profytes of the other halfe to her syster. &c. yet it is to wote that whan it is sayde males and females be of full age / that shall be vnderstanded of the age of .xxi. yere / for yf any feoffement or graunte relese / confirmacyon / obligacyon / or any other wytyng befoze any such age

Indul-
gencia
iuris in
pupils.
los.

age be made by any of the .x. or that
any within suche age be baylyfe or re-
ceyuer w^t any mā. &c. al is for nought
and may be auoyded. Also a man be-
fore such age shall not be sworn in no
iury nor in no inquysycyon. Also yf te-
nementes be gyuen to a man in the
tayle whiche hathe as moche lande in
fee symple & hathe yssue. ii. daughters
and dyeth / and the daughters make
partycyon betwene them / so that the
landes in fee symple be allotted to the
yonger daughter in alowaunce of the
tenementes tailed / allotted to y^e elder
daughter / if after such partycyon the
yonger daughter alyeneth the lande
in fee symple to a nother in fee and hath
yssue a son or a daughter and dyeth /
the issue may entre in the tenementes
tailed and them to holde in properte
with the y^e aunte / and thys is for .ii.
causes / one is for that that the yssue
may haue no remedy of the lande alye-
nyd by his moder for y^e that the lande
was to her in fee symple / & in so moche
that he is of the heyres in the tayle / &
hathe nothyng recompensed of that /

*Two
causes.

R. i.

that

Parceners.

Cap. i. that to him belongeth of the tenement
tes tyled/and namely whan such par
tycyon makethe no dyscontynuaunce
of the tyle as shalbe sayde here after
in the chapter of dyscontynuaunce.
But þe contrary is holden. **M. x. B. 6.**
that is to say that they may nat entre
vpon the percener that hath his lande
tyled/but is set to hys formedon. A
nother cause is for that / that it shalbe
arrected the folp of the elder syster that
she wold agre to the partycyon/where
she myght haue had halfe the lande in
fe symple and halfe of the tenementes
in the tyle for purparty and so to be
sure without damage. & c. Also if a mā
seised in a ploughe lande by iust tyle
and dysseaseth an infante within age
of a nother ploughe lande and hathe
ysue .ii. Doughters and dyeth seased
of bothe those ploughe landes/the in
fante than being within age and the
Doughters entre and make partycyon
that the one ploughe lande is lotted
to the purparte of the one as parcase
to the yonger syster in allowaunce of
that other ploughe lande y^e alloteth
to the

to the purparte of that other / so that Cap. i.
 after the infante entreth in þe ploughe
 lande of the whiche he was dysseysyd
 vpon the possessyon of the percener y^e
 hath the same ploughe lande / than the
 same percener may entre in to that o-
 ther ploughe land that the syster hath
 & holdeth in percenery with her / but
 if y^e yonger sister alye þe same ploughe
 lande to a nother in fee symple before
 the entre of the infante / and after the
 chyld entreth vpon the possessyon of
 the alyen thā she may not entre in the
 other ploughe lande / for thys that by
 her alyenacyon she hath vtterly dys-
 myssed her selfe to haue any parte of
 the tenementes as parcener / but if y^e
 yonger syster before the entre of the
 infante make therof a lease for terme
 of yeres or for terme of life or i fe taile /
 sauynge the reuercyō to her / and after
 the chyld entreth there / peraduenture
 it is otherwys / for thys that she dys-
 myssed not her selfe of all that y^e was
 in her / but hath reserved to her the re-
 uercion and the fee symple. &c.

Also if there be. iii. or. iiii. parceners

It. ii.

that

Parceners.

Cap. i. that make partycyon betwene them/
yf the parte of one parcener be defetyd
by suche lawefull entre he may entre
and occupye the same other landes of
all the other parceners / and compell
them to make newe partycyon of the
other landes betwene them. &c.

Also yf there be .ii. parceners / and
the one taketh an husbände / and the
husbände and the wyfe haue yssue be-
twene them / and the wyfe dyeth and
the husbände holdeth him in the halfe
as tenaunt by the curtesye. In thys
case the parcener that suruiveth and
the tenaunt by the curtesy may well
make partycyon betwene them. &c.
And if the tenaunt by curtesy wyl not
agre to make particion / than the par-
cener that suruiveth may haue a wryt
de pticipacione facienda. &c. and com-
pell hym to make partycyon. But yf
the tenaunt by the curtesy wyl haue
partycion made betwene them and ye
parcener that suruiveth wyl not haue
it / than the tenaunt by the curtesy shal
haue no remedy for to haue particion
for he may not haue a wryt de partici-
pacione

p. 5.
E. 3.

Parceners. Fo. lxxxiii.

partycione facienda / for thys that he is **Cap. i.**
not parcener / for suche a wyrt lyeth
for parceners al onely. And so may ye
se that the wyrt de partycypacione fa-
cienda lyeth agaynste tenauntes by
the curtesy / and yet him selfe may not
haue suche a wyrt.

Parceners by the custome.

Cap. ii.

Parceners by y^e custome be where **Cap. ii.**
a man seased in fee taylor of lande
or tenementes y^e be of the tenure
called Gauekynde within the shyre of **Gauel**
kent / and hath yssues dyuers sonnes **kynde.**
and dyeth / suche landes and tenemen-
tes shall dyscende to all the sonnes by
the custome / and they euenly shall en-
heryte and make partycyon betwene
thē by the custome as females do / and
a wyrt de partycipacione facienda lyeth
in thys case as betwene females / but
it behoueth in the declaracyō to make
mencion of the custome / also suche
custome is i other places i Englande / **¶ Par-**
also such custome is in north wales. **tycya**
¶ Also there is a nother partycyon **lia a su-**
that is of a nother nature and in a perioy-
It. iii. **nother bus.**

Parceners .

Cap. ii . nother forme than any of the pticions
aforesayde/ as a man sealed of certayn
lādes in fee simple hath issue. ii. dought
ters/ and the elder is maryed / and the
father gyueth parcel of the same lādes
to the husbāde with hys doughter in
franke maryage and dyeth sealed in
the remenaunt/ the whiche remenaunt
is of more and greter value by yere
than be the landes gyuen in frāke ma
ryage. In thys case the husbāde and
the wyfe shall haue nothyng for theyr
parte of the sayde remenaunte but if
they wyl put theyr landes gyuen in
franke maryage in hochepot with the
remenaunt of the lande with her syster/
and if they wyl nat do so/ than the yon
ger syster may occupy the same reme
naunt and take to her the ppytes only
and it semeth y^e thys worde hochepot
is in englysshe a puddyng/ for in suche
a puddyng is nat comonly put one
only thing/ but one thig with another
and for thys that it behoueth in suche
case to put the landes gyuen in franke
maryage with the other lādes i hoche
pot if y^e husbāde & the wyfe wyl haue
any

any thing in the other remenaunt. &c.
 This worde hochepot is but a terme of
 symplitude/ and is as muche to say as
 to put the lādes gūen in franke mary
 age and other landes in fee symple. &c.
 togyther/ and thys is to suche entent
 to accompte the value of all the landes
 that is to say / of the landes gūen in
 franke maryage and the remenaunt
 that was nat gūen and than party
 cyon shalbe made in thys forme that
 ensuith. As put case that a man sealed
 of. xxx. acres of lande in fee symple eue
 ry acre in value. xii. d. by the yere whi
 che hath yssue. ii. doughters/ and the
 one is couert baron/ and the father gy
 ueth. x. acres of the. xxx. acres to the
 husbāde with his doughter in franke
 maryage and dyeth sealed of the reme
 naunt/ than the other syster shal entre
 in the remenaunt/ that is to say in the
 xx. acres & shal occupye it to her owne
 vse/ excepte the husbāde and the wyfe
 wyll put they. x. acres euen to them
 in franke maryage with the other. xx.
 acres. in hochepot/ & is to say togyther
 and than whā the value is knownen of

Parceners .

Cap. ii . every acre /that is to say/ every acre is
perely worth .xii. d. than the partition
shall be made in suche forme /that is to
say / that the husbände and the wyfe
shall haue aboue the .x. acres gyuen to
them in franke maryage .v. acres in
seueralte of the .xx. acres and that o-
ther syfter shall haue the remenaunt
that is .xb. acres of the .xx. acres for
her parte so y^t accomptyng y^e .x. acres
that the husbände and the wyfe hade
in franke maryage / and the other .v.
acres of the .xx. acres / the husbände &
the wyfe haue as moch i perely value
as that other sister hath / and so alway
vpon suche partycyon the landes gy-
uen in franke mariage abide to the do-
nees or to theyr heyrres .&c. after the

***Nota** forme of the gyfte .&c. For if the other
parcener shold haue no thyng of this
that is gyuen in franke maryage / of
this sholde folowe an inconuenyence
and a thyng agaynste reason whiche
the lawe wyll not suffre .&c. and the
cause why the landes gyuen in franke
maryage shall be pnt in hotchepot is
this /that whan a man geueth landes
and

and tenementes in franke maryage **Cap. ii.**
 with hys doughter or with hys other
 cosyn/it is to vnderstande by the lawe
 that suche gyfte made by such wordes
 frake maryage is an auauncement of
 his doughter or of hys cosyn/ & namly
 whan the donour and his heyses shal
 not haue any rent nor seruyce of hym
 excepte fealte vnto the fourth degre be
 passed. &c. & for suche cause the lawe is
 that she shal haue nothyng of y^e other
 landes and tenementes descended to
 the other parceners. &c. but yf she wyll
 put the tenementes geuen in franke
 maryage in hochepot as is afore sayd
 and if he wyll not put the landes gyue
 in franke maryage i hochepot / thā she
 shal haue nothyng in the remenaunt
 for this that it shalbe vnderstande by
 the lawe that she is sufficiencytly auan-
 ced / to whiche auauncement she a-
 greeth and holdeth her contente/and
 the same lawe is in thys mater be-
 twene the donees in franke maryage
 and the other parceners as to put in
 hochepot. &c. y^e same lawe is betwene
 the heyses of the donees in franke ma-

Cap. ii. ryage and the parceners. &c. if the do-
nces in franke maryage dy before thir
auncestres oz before such particiō. &c.
as to put in hocheipot. &c. And not wel
that gyftes in franke maryage was
the comon lawe before the statute of
westmynstre the seconde / and alway
after so hathe ben vsed and conty-
nued. &c.

C Also suche puttynge in hocheipot.
&c. is where land; oz tenementes that
were gyuen in franke maryage dys-
cende fro the donours in franke ma-
ryage all onely for if the landes dys-
cende to the doughters by the father
the donoure / oz by the mother the do-
nour / oz by the brother the donour / oz
other auncestres & not by the donour
&c. there it is otherwyle / for in suche
case she to whom suche gyfte in frāke
maryage is made shall haue her parte
as yf no suche gyfte in franke mary-
age hade be made / for thys that she
was not auanced by hym. &c. but by
another.

C Also yf a man seysed in .xxx. acres
of lande

of lande euery acre of euen perely value hauinge yssue two doughters as it is aforesayde / and geueth of thys to the husbande of the doughter .xv. acres in franke marpage and dyethe seyled in the other .xv. acres / in thys case that other syster shall haue the .xv. acres so dyscended to her onely / and the husbande and the wyfe shall not put in suche case the .xv. acres to hym gyuen in franke marpage in hocheipot .&c. for thys that the tenementes gyuen to hym in franke marpage be of as good perely value as the other landes descended .&c. For yf the landes gyuen in franke marpage were of as euen value as the remenant or of more value than in bayne and to none entent suche landes gyuen in franke marpage shall be put in hocheipot .&c. for thys that she may haue no thyng of the other landes descended .&c. For yf she holde haue any parcell of the other landes descended than holde she haue more in perely value than her systre .&c. which
the

Parceners.

Cap. ii. the lawe wyl nat. &c. And as it is sayde in the cases aforesayde of .ii. daughters or .ii. parceners/in the same maner & in lyke case is/ where there be mo sisters after that as the case & y^e mater is. &c. And it is to wete that landes and tenementes gyuen in franke maryage shall nat be put in hochepot but with the landes dyscended in fee symple/or of landys descended in fee taylor/particion shall be made as if no such gifte in franke maryage had be made. Also no landes shall be put in hochepot with other/ but lādes that begyuen in franke mariage all only. For if any woman haue any other lādes or tenementes by any other gyfte in the taylor shall nener put suche lande so gynen in hochepot. &c. but she shall haue her parte of the remenaunt descended. &c. that is as muche as the other parcener shall haue of the same remenaunt.

Also another ptycyon may be made betwene parceners that varyeth from the ptycyons aforesayde/ as if there be .iii. parceners and the yongest wold haue ptycyon/ & the other two wolde nat/

Parceners . No. lxxxviii.

Cap. ii.
mat/but wyl holden in percenery that/
that to them belongeth without par-
tycyon . In this case if one parte be a-
lotted in seueralte to the yongest syster
after that that she ought to haue than
the other may holde the remenaunt in
percenery and occupy in comon with-
out partycyon if they wyl and suche
partycyon is good ynoughe . And if
after the elder & myddel parcener wyl
make partycyon betwene them of that
that they holde / they may well do so
whā they please . But where particion
shalbe made by force of a wryt de parti-
cipacione facienda . &c . there otherwylse
it is for there behoueth it that euery
parcener haue hys parte in seueralte .
&c . More shalbe sayde of parceners in
the chapitre of Joyntenautes & also in
the chapitre of tenautes in comon . &c .

C Joyntenautes .

Cap. iii .

Ioyntenautes be as a man leased
of certayne landes or tenementes
&c . and therof hathe enfeofed two
or thre or foure / or mo to haue and to
holde

Ca. iii .

Joyntenauntes .

Ca.iii.

holde to them and to theyr heyres / or
to haue and to holde to the for terme
of theyr liues / or for terme of anothers
lyfe / by force of which feoffment they
be seyled / suche be Joyntenauntes .

C Also if .ii. or .iii. dysseise another of
any landes or tenementes to theyr
owne vse / than the disseisors be Joynt
tenauntes . But if they dysseise another
to the vse of one of them / than be they
no Joyntenauntes / but he to whome
the vse of the disseysyn is made sole te-
naunt / and the other haue nothyng in
the tenauncy but be called coadiutours

Disseisi

to the disseisin . &c . And note well that
disseisin is pperly where a mā entreteth
in any landes or tenementes where his
entre is nat leful / & putteth him out y^e

Maric.

hath the frāke tenemēt . &c . And it is to
wote that y^e nature of ioyntenauncy is
that he y^e suruiueth shal haue only the
hole tenauncy after suche estate as he
hath if the ioynture be contynued . &c .
As if .iii. Joyntenauntes be i fee simple
and the one hath issue & dieth / yct they
that suruyue shal haue the tenementes
hole / and the y^ellue shal haue nothyng

And

Joyntenautes. Fe. lxxxix.

And yf the seconde joyntenaunt haue **Ca. iii.**
yssue and dy/ yet the thyrde that sury-
ueth shall haue the tenementes hole/
and shall haue them in fee symple to **Dyuer-**
him and to his heyres /but otherwys **syte.**
it is of parceners/ For if.iii. parceners
be / and before any partycyon the one
hath yssue and dieth /that that to him
belongeth shall descende to hys yssue/
& if suche a parcener dy without yssue/
than that /that to her belongeth shall
descende to her heyres /so y^e they shall
haue thys by dyscent & not by the sur-
uyuour as joyntenautes haue. &c. &
as y^e suruiuour holdeth place amonge
Joyntenautes. &c. i the same maner
he holdeth place amonge them that
haue ioynte estate oz possessyon with
other of catel roiall oz catel parsonal/
As yf a lease of landes oz tenementes
be made to many for terme of yeres he
y^e suruiueth of the lessees shall haue the
tenementes hole to hym durynge the
terme by force of the same lease. And
if any horse oz other catell parsonal be
gyuen to many mo/ he that suruyueth
shall haue them to hym selfe.

In

Joyntenauntes.

La.iii.

In the same maner it is of dettes and dutyes. &c. For if an obligacyon be made to many for one duty/he that suruyueth shall haue all dette / and soo it is of all other couenauntes and contracts.

Also some ioyntenauntes may be that may haue ioynte estate and be Joyntenauntes for terme of their lyues & yet they haue seueral inherytaunces As that landes be gyuen to two men and to the heyres of theyr two bodies engendred. In thys case the donees haue ioynte estate for terme of theyr two lyues / and they haue seueral inherytaunce For if the one of the donours haue yssue and dy / the other that suruyueth shall haue all by the suruyuour for terme of his lyfe. And yf he that suruyueth hath also yssue & dye / than the yssue of the one shall haue the halfe of the lande / and the yssue of the other shall haue that other halfe of the lande / and they shall hold the lande bytwene them in commune / and be not ioyntenauntes but tenauntes in commune. And the case that such donees in such case

Joyntenantes. fo. lxxx.

Ca. iii.
case haue ioynte estate for terme of
theyr lyues is this/for this that at the
begynnyng landes were gyue to them
two / whiche wordes withoute more
saynge make a ioynte estate to theym
for terme of theyr lyues. For yf a man
wyl let lande to an other by dede / or
without dede nat makynge mencyon
what estate he hath / and of this mas
keth lyutrey of seylsye. In this case
the lesse shall haue estate for terme of
hys lyfe / and so in so muche that the
landes were gyuen to them they haue
a ioynt estate for terme of theyr lyues
and the cause why they haue seuerall
inherytaunce is this in so muche that
they can nat by possybyltye haue an
heire betwene theym ingendred as a
man and woman maye haue. &c. that
the lawe wyl that theyr estate & theyr
inherytaunce shall be suche as reason
wyl after the forme and effecte of the
wordes of the gyfte/and that is to the
heires that the one engendreth of his
body by any of his wyfes & the heires
that the other engendreth of his body
by any of his wyues. &c. so it behoueth
It, by ne

Ca. iiii. by necessity of reason / that they shall
 have severall inheritaunce. And in
 suche case yf the yssue of one of the do-
 nees after the dethe of the donees dye /
 so that he hath no yssue alpye of hys
 body engendred / than the donoure or
 hys heyre may entre in the halfe as in
 hys reuercyon / though the other of
 the donees hath yssue a lyue. &c. And
 the cause is for so muche that the in-
 heritaunces be severed. &c. the reuer-
 cyon in the lawe is severed. &c. and the
 survyuour of the yssue of y^e other shall
 holde no place to haue the hole. And so
 as it is sayde of males / iⁿ p^{er} same maner
 it is where lande is gyuen to. ii. females &
 to y^e heyres of they^r. ii. bodies begottē
 ¶ Also if lande be gyuen to. ii. females
 and to the heyres of one of them / this
 is a good Joynture / and the one hath
 a fre holde / and the other hath fee sym-
 ple / and yf he that hath the fee dye / he
 that hath the free holde shall haue the
 hole by the survyuour for terme of life
 In the same maner it is where tenures
 be gyuen to. ii. and to the heyres of the
 body of one of them engendred the one
 hath

Joyntenauntes. Fo. lxxi.

hath free holde/and the other fee taylor

Ca. iii.

CAlso yf. ii. joyntenauntes be scaled
of estate of fee simple & y^e one graunteth
a rent charge by hys dede to an other
out of that that to hym belongeth. &c.
in thys case durynge the lyfe of the
grauntour the rent charge is effectual
But after hys decease the rent charge
is voyde as to charge the lande/ for he
that hath the lande by the suruyuoure
shall holde all the lande dyscharged.
And the cause is/ for thys that he that
suruyueth clapmeth to haue the lande
by the suruyuoure. &c. & nat by dyscent
of hys felowe. &c. But otherwyle it is
of parceners/ for if there be. ii. pceners
of tenementes in fee simple / & before
any party on the one chargeth that
that to hym belongeth by hys dede of
a rent charge. &c. & dyeth wout yssue &
that y^e to him belongeth descendeth to
the other pcener/ in this case the other
parcener shall holde the lande charged
&c. for thys that he cometh to y^e halfe
by dyscent as heyre. &c.

CAlso yf there be. ii. Joyntenauntes Deuyse,
in fee simple w^{ch} in one borough where
the landz and tenementes within the

L. ii.

same

Ca. iii. same bozoughe be deupfable by testa-
ment / yf the one of the sayde Joyntes-
nautes deupfe that / that to hym be-
longeth by testament. &c. & dyc / thys
deupfe is voyde. And the cause is for
thys that no deupfe mape take effecte
but after the deathe of the deupfoure.
And for thys that by hys deche all the
lande incontynent cometh by the lawe
to hys felowe that suruyuerh by the
suruyuour / which ne claiemeth nor hath
nothyng in the lande by the deupfe
but in hys owne ryght by the suruy-
uour after the course of the lawe. &c.
for thys cause suche deupfes is voyde.

Marie.

C But otherwys it is of parceners se-
aled of tenementes deupfable in suche
case of deupfe. &c. (*Causa qua supra*)
Also it is comonly sayde yf every ioynt-
tenaunt is sealed of the lande that he
holdeth ioyntly. &c. thughe and by al.
And this is as muche to say that he is
sealed by every parcell and by all. &c.
and thys is trwe / for in every parcell &
by eche parcell and by all the landes &
tenementes he is ioyntly sealed with
hys felowes. &c. ¶ :x: * :y: *

Also

Joynテナンテs. fo. lxxxii.

Also pf. ii. ioynテナンテs be leased
of certayne landes in fee symple / and
that one letteth that / that to hym be-
longethe to a straunger for terme of .
xl. yere and dyeth within the terme.
In this case after his dysceas the lesse
may entre and occupy p^r halfe to hym
letten durynge the terme. &c. though
the lessee neuer had possession of it in
the lyfe of the lessoure by force of the
lesse. &c. And the diuersite betwene the
cause of the graunt of a rent charge
and the case is thys. For in the graunt
of a rent charge by a Joynテナンテ the
テナンテs abyde alway as they were
afore / without that / that any hath
any ryght to haue any parcell of the te-
nementes but them selfe and the tene-
mentes abyde in suche plyte as they
were before the charge. &c. But where
a lease is made by a ioynテナンテ to an
other for terme of yeres. &c. inconty-
nent by force of the lease the lesse hath
ryght in the same lande p^r is to say of
al that p^r to his lessour belonged / & to
haue p^r by force of p^r same lesse during
his terme. &c. & thys is p^r diuerslyte. &c.

Ca. iii.


R. iii.

Also

Ca. iii.

Dyuer-
lyte.

D. iii.
E. iii.

Also ioyntenautes pf they wyl may
make partycyon byt went theym/ and
the partycyon is good inoughe / but
they shal nat be compelled by the lawe
to do it / but if they wyl make partycyon
of theyr proper wyl and agremente /
the pucion shal stande in hys strength
D. iii. E. iii.  : * : * : * : * :

Also pf a ioynte estate be made of
lande to the husbande and the wyfe /
and to the thyrde parson / in thys case
the husbande and the wyfe haue nat in
the lawe in theyr ryght but y^e halfe. &c.
And the thyrde parson shal haue as
much as the husbande and the wyfe
hath / that is to say / y^e other halfe. &c.
And the cause is for that the husbande
and the wyfe be but one parson in the
lawe and be in lyke case as pf estate be
made to. ii. Ioyntenautes where the
one hath by force of Ioynture the one
halfe and the other the other halfe. In
y^e same maner is where estate is made
to the husbande and the wyfe and to
other. ii. men / in this case the husbande
and the wyfe haue nat but the thyrde
parte

Joyntenauntes. Ho. lxxiii.
parte and the other. ii. men the other
ii. partes. &c. (Causa qua supra) **Ca. lit.**

Shall be sayde of the matter touchyng
joyntenaunce in the
chapytre of te-
nauntes

in comon/tenaunt(per elegit)
and tenaunt by estatute
marchaunte.

Tenauntes in comon.

Cap. iiii.

¶:*:¶

Tenauntes in comon be they that **Ca. iiii.**
haue landes and tenementes in
fee symple / fee taylor / or for terme of
lyfe. &c. whiche haue suche landes
and tenementes by seuerall tytles / and
nat joynte tytles / & none of the know-
eth of it bys seuerall / but they ought
by the lawe to occupye suche landes
and tenementes in comon. And unde-
ryded to take the profytes in comon.
And bycause that they come to suche
landes & tenementes by seuerall tytles
and nat by one selfe joynte tytles / and
L. iiii. they?

Ca. iiii.

¶ Fee
simple.

theyr occupacyon and posselcyon shall
be by the lawe to be amonge theym in
comon they be called tenauntes in co-
mon as yf a man enfeoffe two ioynte-
nauntes in fee/ and the one of them a-
lieneth that that to hym belongeth to
an other in fee/ nowe the other ioynte-
naunt and the alene be tenauntes in
comon / for thys that they be seased in
suche tenementes by seuerall tytles/ for
the alene comethe in the halfe by the
feoffement of the ioyntenaunt/ & the o-
ther ioyntenaunt hath the other halfe
by force of the fyrste feoffement made
to hym and to hys fyrst felowe/ and so
they be in by seuerall tytles and by se-
neral feoffemētes. &c. And it is to wote
that whan it is sayde in any booke that
a mā is seased in fee/ without more say-
enge. It shalbe vnderstande fe simple
for it shall nat be vnderstande by suche
worde in fee / that a man is seased in
fe taylor excepte that there be put ther
to such addycō that is to say fe taylor.
¶ Also yf. iiii. ioyntenauntes be / and
the one of them alenethe that / that
vnto hym belongeth to an other in fee
In

Tenauntes in comon. Fo.lxxxiij.

In this case the alycnee is tenaunt in comon with the other.ii. ioyntenauntes. But yet the other.ii. ioyntenauntes be leased of the.ii. parties ioyntly and of these.ii. parties the suruyuour betwene them holdeth place. &c. **Co. iiii.**

Also yf there be .ii. ioyntenauntes in fee / and the one gyueth that / that vnto him belongeth to an other in the taylor / the donee and the other ioyntenaunt be tenauntes in comon. &c. But yf the landes be gyuen to.ii. men / and to y^e heyres of theyr.ii. bodyes engendryd / the donees haue ioynt estate for terme of theyr lyues and if eche of the haue yssue and dye / theyr yssues shall holde in comon. &c. But yf landes be gyuen to.ii. abbottes / as to the abbot of westm^r / and to the abbott of saynte Albons / to haue and to holde to them and to theyr successours / in thys case they haue incontynen^te at the begynnyng estate in comon and nat ioynte estate. And the cause is for thys that euery abbot or other souerayne of an house of religiō before that he be made abbot or souerayne / was but a deade

R. b.

man

Ca. llii.

man in the lawe. And whā he is made
abbotte he is a man personable in the
lawe alonly to purchase and to haue
landes & tenementes and other thyngs
to the vse of hys house and nat to hys
owne proper vse/as other seculer men
may. And for thys in the begynnynge
of theyr purchase they be tenauntes
in comon. And if the one of them dye /
ye abbot that suruiveth shall nat haue
al by the suruivour/ but the successour
of the abbot & dieth shall holde ye halfe
i comon wth the abbot ye suruiveth. &c.

¶ Also yf landes be gryn to an abbot
and to a seculer man / to haue and to
holde to them that is to say to the ab-
bot and hys successours/ and to the se-
culer man to hym and to hys heyres /
they haue estate in comon (Causa qua
supra) ¶: ¶: ¶: ¶: ¶: ¶: ¶: ¶:

¶ Also if landes be gryn to two men
to haue and to holde the one halfe to
the one & to hys heyres/ and the other
halfe to the other and to hys heyres:
they be tenauntes in comon. &c.

¶: ¶: ¶:

¶ Also if a man seled of certayn landz
enfe

Tenauntes in comon. Fo. lxxxv. Ca. iiii.
enfeoffeth an other in the halfe of the
same lande withoute any speche or as-
signement or lymptacyon of the same
halfe in seueralty at y^e time of the feof-
fement / thā the feoffe and the feoffour
shall holde the partyes of the lande in
comon. And in the same maner as is a-
fore sayde of tenauntes in comon of
landes or tenementes in fee symple or
fee taylor. In the same maner may it
be sayde of tenauntes for terme of lyfe,
As two Joyntenauntes be in fee / and
the one letteth to a man y^e / that vnto
hym belongeth for terme of lyfe / and
the other ioyntenaunt letteth that that
to hym belongeth to an other for terme
of lyfe these two lessees be tenauntes in
comon for terme of theyr lyues. &c.



Also if a man let landes to two men
for terme of theyr lyues / and the one
graunteth all hys estate of that / that
vnto hym belongeth to an other. &c.
than that other tenaunte for terme of
lyfe / and he to whome the graunte is
made be tenauntes in comon durynge
the tyme that bothe lessees be alyue.
And

Ca. iiii.

C And it is to be remembred that in all other suche cases thought that there be nat here exprestely named or speccyfyed/ if they be in lyke reason / they be in lyke lawe. *¶* *¶* *¶* *¶* *¶* *¶*

A ques-
tyon.

C Also there be .ii. ioyntenauntes in fee/ and the one letteth that that unto hym belongeth to an other for terme of lyfe durynge hys lyfe and the other tenaunt that dyd nat let/be tenauntes in comon. And vpon this case a questyon maye ryse/as thus. But the case that the lessoure hath yssue and dyeth lyvynge that other ioyntenaunte hys felowe/ & lyvynge the tenaunt for terme of lyfe/ the questyon may be suche if y^e reuercyon of the halfe. &c. that the lessour hath shall dyscende to the yssue of the lessour or that y^e other ioyntenaunt shall haue it by the suruyuoure. And some haue sayde in thys case that the other ioyntenaunt shall haue the reuercyon by the suruyuour/ & they reason is suche/ whan the ioyntenauntes were ioyntely seled in fe symple. &c. though that one of theym made estate of that that unto hym belongeth for terme of lyfe

Tenauntes in comd. fo. lxxvii.
lyfe/and thowge that he hath thereof
franke tenement of that that to hym be
longeth by the lease / yet he hath nat
seuered the fe simple. But the fee simple
abydeth to hym ioyntly as it was be-
fore. And so it cometh vnto them that
the other ioynte tenaunte that sury-
ueth shall haue the reuercyon by the
suryuour. &c. And other haue sayde
the contrary/ and thys is the reason
whan one of the ioyntenauntes letteth
this that to hym belongeth to an other
for terme of his lyfe/that by such lease
the franke tenement is seuered frome
the ioynture. And by the same reason
the reuercyon that is dependant vnto
the same franke tenement is seuered
from the ioynture. Also yf the lessour
had reserved to him a yerly rent vpon
the lease/the lessour only shall haue the
rent. &c. The which is a proofe that the
reuercyon is only in hym/and that the
other hath nothing in the reuercyon.
Also if y^e tenaunt for terme of lyfe were
impleded. &c. & made defaute aft defaute
than the lessour shall be only of thys re-
ceyued to defende hys ryght / and hys
felowe

Ca. iiii.

Ca. lxxi.

felowe in thys case in no maner shalbe receyued / whiche proueth that the reuercyon of the halfe is onely in the lessoure . And so by consequens / yf the lessoure dye lypynge the lesse for terme of lyfe / the reuercyon shal dyscende to the heyres of the lessoure . &c . and nat come to the other ioyntenaunte by the surypuoure (Ideo quere) But in thys case if the ioyntenaunt that hath the franke tenement haue yssue and dye lypynge the lessoure and the lesse than it semyth that the yssue shal haue the halfe in his demesne as of fe by discent for thys y^t the franke tenemente may nat by nature of þ ioynture be anered to a reuercyon . &c . And it is certayne that he that lettyd / was seased of the halfe in his demysne as of fee / & none shal haue any ioynture in hys franke tenemente . Ergo this shal discede to his yssues . Sed quere . But if it be thus that the lawe in this case is such that if the lessour dye lypynge the lessee and lypynge the other ioyntenaunte that hath the franke tenement of the other halfe / that the reuercyon shal

In-
quere.

In-
quere.

descende

Tenautes in coms. Ro. lxxviii.

Descende to the issue of y^e lessour/ than
is the ioynture and the tytle that any
of theym may haue by the suruyours
by the ryght of the ioynture aduallid
and all vicerly defeted for euer.

Ca. iiii.

In the same maner it is if the ioynt-
tenaunt y^e hath the franke tenement
dye/ lyuyng the lessour and the lessee/
yf the lawe be suche that hys franke
tenement and fee that he hath in the
halfe shall descende to his issue/ thā the
ioynture shall be defeted for euer. &c.

Also yf. iiii. ioyntenautes be and the
one releaseth by hys dede to one of his
felowes all the ryght that he hath in
the lande / than hath he to whome the
release is made the thyrde parte of the
landes by force of the release / and he
and hys felowe shall holde the other
ii. ptes ioyntly. And as to the thyrde
parte that he hath by force of the re-
lease/ he holdeth that thyrde parte wth
hym selfe and hys felowe in comon.

And it is to wytte that somtyme a
dede of release shall take effect & shall
be enure to put the estate of hym that
made the release/ to hym to whome the
release

Relese

Ca. iiii.

release is made/as in the case aforesade
And also if a ioynt estate be made to
the husbände / and hys wyfe and to a
thyrde parson / and the thyrde parson
releaseth his ryght that he hath. &c. to
the husbände / than hath the husbände
the haife that the thyrde person hade /
and the wyfe of this hath nothyng.
And if in suche case the thyrde release.
&c. to the wyfe nat nampyng the hus-
bände in the release / the hath the wyfe
the haife that the thyrde person hade.
And the husbände hath nothyng of
thys but in ryght of his wyfe / for thys
that in suche case the release shal enure
to put the estate to hym to whome the
release is made of all that p^r belonged
to hym that made the release. &c. And
in some case a release shal enure to put
all the ryght that he hath that made
the release to hym to whō the release
is made. As a man leased of certayne
landes and tenementes is dysseysed
by . ii. dysseysours / p^r the dysseysy by
hys dede release all hys ryght. &c. to
one of the dysseysours / than he to whō
the release is made shal haue & holde
all the

Tenauntes in comō. Ho. lxxxviii.

all the tenementes to hym ouely / and
put out his felowe of euery occupation **Ed. viii**
of it. And the cause is for this that the
h. dysseynours were seyled in the tene-
mentes by wronge by theym done a-
gainst y^e lawe. And whan one of them
hath the release of hym that had right
to entre, &c. Thys ryght in suche case
restyth in hym / to whome the release
is made / and is in suche plyghte as yf
he that had the ryght had entred and
enfeoffed hym, &c. And the cause is / for
thys that he that hath before had an
estate by wronge / that is to say by dys-
seyn now by the release a ryghtfull
estate. ¶ : * : * : * : * : * : ¶

¶ Also in some case a relese shall enure
by way of extinguishment / and in such **p. 5. Es**
case suche relese shall helpe the iopn-
tenaunt to whome the relese was nat
made / as wel as hym to whome the re-
lease is made. As if a man be dysseyned
& the dysseynour maketh a feoffemente
to ii. men in fe / yf the dysseyn relese to
one of the feoffes in fe by hys dede / that
suche relese shall enure to bothe the
feoffes / for thys that the feoffes haue

W. t.

estate

Co. iii.

estate by the lawe / that is to say / but þe
 feoffment / and nat by wronge done
 to any other. &c. ¶ : * : * : ¶

¶ And in the same maner it is yf the
 dylligent make a lease to a man for tyme
 of lyfe the remayndre ouer to an other
 in fe / yf the dylligent releafe to y^e tenant
 for terme of lyfe at his ryght. &c. This
 releafe enureth as well to hym in the
 remaynder as to the tenant for terme
 of lyfe. &c. And y^e cause is for this that
 tenant for terme of lyfe cometh to his
 estate by the course of the lawe . And
 for this the releafe shal enure and take
 effecte by waye of extynguyschement
 of the ryght of hym that hath released
 &c. And by this releafe the tenant for
 terme of lyfe hath no greter estate than
 he had before the releafe made vnto
 hym / and the ryght of hym that releas-
 ed is ali utterly extyncte . And in so
 muche that suche releafe can nat en-
 large the estate of the tenant for terme
 of lyfe / it is reason that the releafe
 shal enure to hym in the remayndre .
 &c. ¶ More shal be sayde of releases
 in the chapytre of releases.

Also

Tenauntes in comō. fo. lxxxix.

Also if there be. ii. p̄ceners/ and the one alyeneth that vnto him belonge. **Ca. lxxxix**
to an other / than the other personar
and the alyene be tenauntes in comō.

Also tenaūtes in comon may be op
tytle of prescriptyon/ if the one and his
aūcestres oz they that whose estate be
hathe in the halfe / haue holden in co-
mon/ the same halfe with the other te-
naunte that hath the other halfe / and
with hys aūcestres / oz they in whose
estate he hath/ as vndeuyded fro tyme
wherof no memory rennethe. &c. And
dyuers other maners may make/ and
cause men to be tenauntes in comon/
that be nat here exp̄ssyd.

§. i. §. ii. §. iii. §. iiii.

Also in sum case tenaūtes in comon
ought to haue of theyr possessyon seue-
ral accyon. / and in sum case they shal
toyne in one accyon. j. oz if there be. ii.
tenauntes in comon / and they be dys-
seased they ought to haue agaynst the
dyssealoure. ii. assyses/ and nat one as-
syle / for euery of thē ought to haue an
assise of his halfe. &c. And þ̄ cause is for
thys þ̄ tenaūtes in comō were lested by

R. ii.

seuerall

Ca. iii.

seuerall tytles / but otherwyle it is of
ioyntenauntes. For if ther be. xx. ioynt
tenauntes and they be dysseased / they
shall haue in all theyr names but one
assyse / bycause that they had but one
ioynte tyle. ¶: ¶: ¶: ¶: ¶:

¶ Also yf there be. iii. ioyntenauntes
¶ one releaseth to one of hys felowes
all the ryght that he hath / and after
the other. ii. be diseased of the hole. ¶.
In this case y^e other shall haue seueral
assyses in this forme / that is to saye /
they shall haue in bothe theyre names
one assyse of the. ii. parties. ¶. for this
that they helde the. ii. parties ioyntely
at the tyme of the dysseysyn. And as
to the thyrde parte he to whom the re-
lease was made ought to haue therof
an assyse in hys owne name / for this
y^e as to the thyrde parte he is tenaunt
in comon. ¶. for this that he came to
that thyrde parte / by force of the relese
and nat only by force of the ioynture.

¶ Also as to suc accyons y^e toucheth
the royalte / there is diuersyte betwene
parceners / that be in by dyuers dys-
centes and tenauntes in comon. For
y^e a

Tenauntes in comō. Fo.lxxx.

yt a man leased of certayne landes in Ca.iiii.
fee haue yssue. ii. daughters and dye /
and they entre . &c. and eche of theym
hath yssue a son / and dye without par
tyepon made betwene them by which
the one halfe descendeth to the son of
the one percener / and the other halfe
descendeth to the son of the other par
cener / and they entre and occupye in
comon / and be dysseased / in thys case
they shall haue in theyr .ii. names / one
assise and nat.ii. assyses. And the cause
is that thoughe they come in by dy
uers descentes. &c. yet they be pceners
and a wyrt (de participacione faciēda)
lyeth betwene them . And they be nat
parsoners haunge regarde / respecte
onely to the seyn & possessiō fro theyr
moders / but they be pceners haunge
more respecte to the estate & descended
fro theyr grandfather to their moders
For they may nat be perceners where
their moders were nat pceners before
&c. And so to suche respecte & considera
cyon / y^t is to wyrt as to the fyrst discēt
that was to theyr moders / they haue a
title in pcenery / the which maketh the

Parce
ners by
dyuers
discētes
disseised
shal haue
in theyr
two na
mes one
assise / &
nat.ii.
assyses .

¶.iii.

par

Ca. iiii.

perreners. And also they be put as one
heire to theyr comon auncestre / that
is to saye to theyr graundfather from
whome the lande descended to theyr
moders. And for these causes before
particion betwene the. &c. they sholde
haue one assyse though they come in
by seuerall dyscentes. &c.



C Also yf there be two tenauntes in
comon of certayne landes in fee / and
they gyue the same lande to an other
manne in the tayle / or lette it to an o-
ther man for terme of lyfe / yeldynge
an annuyte / or certayne rente / and a
pounde of pepper / or an hawke / or an
horse / and they ben seased of these ser-
uyces / and after al the rent is behynde
and they dystreyn for it / and the te-
naunte maketh theym rescous.

In that case as to the rente / and the
pounde of pepper they shall haue two
assyses / and as to the hawke / and the
horse but one assise / and the cause why
they haue two assyses / as to the rente
and pounde of pepper is thys / in soo
muche that they were tenauntes in co
mon

Tenauntes in comō. No. lxxxi.
mon by seuerall tytles/ and whan they
made a gyfte in the taylor / or lease for
terme of lyfe. &c. sauynge to them the
reuercyon/ and yeldynge to them cer-
tayne rente. &c. Suche reseruacyon is
incydent to theyr reuercyon.

¶ : * : ¶

And for thys that theyr reuercyon
is in comon/ and by seuerall tytles/as
theyr possession was before theyr rent
and other thynges that may be seue-
red/ & were to them reserued vpon the
gyfte/ or vpon the lease whiche be in-
cydent by the lawe to the reuercyon /
suche thynges so reserued was of the
nature of the reuercyon whiche reuer-
cyon is to them in comon by seuerall
tytles. And it behoueth that the rente
of the pounce of peper whiche may be
seuered is to them in comon/by seue-
rall tytles. And of thys they shal haue
ii. assyles & every of them in his assyle
shal make his playnt of y^e halfe of the
rent & of the halfe of y^e pounce of pep-
&c. But of the hawke & y^e hors which
can nat be seuered/ they shal haue but
one assyle/ for a man may nat make a
playnte

M.iii.

playnte

Ca. lxxxii.

¶

¶

¶

¶

¶

¶

¶


Ca. iiii.

playnt in assise of p^e halfe of an hawke
or of the halfe of an hore. &c. In the
same maner it is of other rentes / and
seruices that tenautes in comon haue
in gresse by dyuers tytles.

¶ Also as to accyons personales / te-
nautes in comon ought to haue such
accyons personals ioyntly in all theyr
names / that is to say of trespas / or of
offences that touche theyr tenautes
in comon. As of brykynge of theyr
houses / brykynge of theyr closures and
pastures / wastynge / and defoulinge of
theyr grasse / cuttyng of theyr woode
& to fysh in theyr pondes & such other
In thys case tenautes in comon shall
haue one accyō ioyntly & recouer ioint-
ly damages by cause that the accyō is
in the personalte / and nat in the realte

Tena-
tes in co
mō shal
haue an
accyon
of dette.

Anoure

¶ Also p^r. ii. tenautes in comō make
a lease of theyr tenemētes to an other
for terme of yerres / yeldyng vnto them
perely a certayne rent / if the rent be be-
hynde. &c. the tenautes shall haue one
accyon of det agaynst the lessee / & nat
dyuers accyons / for that the accyon is
in the personalte. :: * : * : *

Also

Tenauntes in comd. Fo. lxxxii.

¶ Also tenauntes in comon may make particyon betwene them yf they wyll/ though they shall nat be compelled by the lawe. But yf they make particyon betwene them by theyr agrement/ and assente/ suche particyon is good y nough/ as it is adiuged in the boke of assyse. p. iii. c. iiii. ¶: * : * : *

Ca. iiii.

* Particio ex consensu.

¶ Also as there be tenauntes in commons of landes / or tenementes. &c. as is aforesayde. In the same maner there be possessyons and propertyes of chattell real and chattell personall. As yf a lease be made of certayne landes to. ii. men for terme of. xx. yeres/ and whan they be therof possessed/ the one of the leases graunteth that that vnto hym belongeth before the terme to an other than he to whom the graunte is made and the other shall holde and occupye in comon. ¶: * : * : * : *

Tenauntes in comon of catell

¶ Also yf. ii. ioynttenauntes haue the warde of the body/ & of the landes of a chylde within age/ and that one of the graunteth to an other that/ that vnto hym belongeth of the same warde/ & the graunte/ and the other that graunteth

¶. b.

reth

Ca. iiii.

Lethe nat shall haue / and holde it in
comon. &c. ¶: x: *: ~: *: ~

¶ In the same maner it is of chatels
parsonals / as yf. ii. haue a ioynt estate
by gyfte or by bienge of an. horse or an
ore. &c. Ife one of them graūeth that
that to him belongeth of y^e same hors
or ore. &c. Than the graunte and he
that graunted nat shall haue and pos-
selle suche chatell parsonell in comon.
&c. And in suche cases where dyuers
parsones haue cha: els reals or parso-
nells in comon / and by dyuers tytles /
yf the one of theym dyē / the other that
suruyueth / shall nat haue that by the
suruyuour. But the executours of him
that dyeth shall holde and occupy that
with him that suruyueth as theyz tes-
tatoure dyd or oughte in hys lyfe. &c.
for this that theyz tytles and ryght in
thys case were seuerall.

¶ Also in thys case afore sayde / yf. ii.
haue estate in comō for terme of yeres
and the one occupy all / & put the other
out of his possessiō & occupaciō. Than
he that is put out of occupacyon shall
haue agaynst that other a wyttē (de
Electpone)

Tenauntes in comon. Fo. lxxxiii.
Electione firme) for the halfe agaynst
the other. In the same maner it is
where two holde the warde of lādes or
tenementes durynge the noneage of a
chylde/ yf one put out the other of his
possessyon / he that is out shall haue a
writ (de ciectemēt de garde) of y^e halfe
for this that those thynges be chatels
reals and may be appoyoned and se
uered. &c. But no suche accyon of tres
pace/ that is to saye. (Quare clausum
suū fregit et herbam suā conculcauit &
consumpsit) &c. And suche lyke accyōs
the one may nat haue agaynst the o
ther/ for this that eche of them may en
tre and occupy in comon. &c. throughe
and by al the tenementes which they
holde in comon. But yf two be posses
sed of chatels parsonels in comon by
dyners tytles/ as of an horse or an ore
or a kowe yf the one take it all to hym
selfe out of the possessyon of the other/
the other hath none other remedy/ but
to take thys of hym that hath done to
him the wronge for to occupy in comō
whan he may se hys tyme.

In the same maner it is of chatell
reall

Ca. iiii.

Ca. iiii.

The
fourme
of plea-
dyng.

Dyuer
tyte .

real that may nat be senered as in case
aforesayde that two be possessyours of
a warde of the body of a chylde within
age / yf one take the chylde oute of the
possession of the other / the other hath
no remedy by any accyon by the lawe
but so make the childe out of y^e others
possession whan he seeth his time. &c.

¶ Also whan a man in pledyng wyll
shewe a dede of feoffement made vnto
hym / or a gyfte in the tayle / or a lease
for terme of lyfe of any landes or tene-
mentes / there he shall saye by force of
which feoffement gyfte or lese he was
leased. &c. But where a man wyl pfe-
de a lease or a graunt made vnto him cha-
tel real or psonall / ther he shal say per-
force of which he was possessed. More
shalbe sayde of tenauntes in comon in
the chapytre of releases / confyrmacy-
ons / and tenauntes (perelegit)

¶ Estates vpon condycion

¶ : Capi. v. : ¶

Cap. v.

¶ Estates that men haue in landes
or tenementes be in two maners.
That is to saye / they haue estate vpon
condycion in dede / or vpon con-
dycion

Estates byō condicpō. Fo lxxxiii.
bycyon in lawe. Uppon condycyon in
dedes / as a man by dede indented en-
fesseth an other in fee / reseruing to him
& to his heyrēs perely a certayne rente
payable at one feste oꝝ at diuers festes
by yere / vpon condycyon / that yf the
rent be behynde. &c. that it shalbe lefull
to the feoffour & to his heyrēs to entre
in to the landes oꝝ tenementes. &c. Oꝝ
yf the lande be alyened to an other in
fee to yelde vnto hym certayne rente.
&c. And yf it hap y^e the rent be behynde
by a weke after any day of paymēt of
it / oꝝ by a moneth / oꝝ by the halfe yere
after any day of payment that than it
shalbe lefull to the feoffour / and to hys
heyrēs to entre. &c. In thys case yf the
rente be nat payde at suche a tyme / oꝝ
before suche a tyme lymytted and spe-
cified within the condicpō compꝛysed
in the endētūre / than may the feoffour
oꝝ hys heyrēs entre in to suche landes
oꝝ tenementes / and them in hys fyꝛste
estate to haue and to holde / and of this
to put the feoffee cleane out / and it is
called estate vpon condycyon / foꝝ thys
that the estate of the feoffee is deffensa-
ble yf

Ea. b.

*Any
Hyn*

Ed. v.

ble if the condicyon be nat performed.
In the same maner it is / yf landes be
gyuen in the taylor / or let for terme of
lyfe / or for terme of yeres / vpon suche
condicyon. &c. But where a feoffment
is made of certayne landes reseruyng
certayne rente vpon suche condicyon
that yf the rent be behynde that it shal
be letfull to the feoffour and his heyres
to entre / and the lande to hold til they
be satysfied or payde of theyr rent be-
hynde. &c. In thys case yf the rente be
behynde and the feoffour & his heyres
entre / the feoffe is nat excluded clene
out. But the feoffour shal haue & holde
the lande / and take the profytes tyll
that he be satysfied of the rent behynde
And whē he is satysfied the feoffe may
reentre in the same lande and holde it
as he dyd before / for in suche case the
feoffour shal haue it / but in maner for
a dystresse in the meane tyme tyl he be
satysfied of the rente. &c. shal take the
profytes in the meane tyme.

¶ Also dyuers wordes amonge other
there be that by vertue of the ym selfe
make estate vpon condicyon. Done is
thys

Estates vpon condicyn. Fo. lxxxv.

thys worde of condycyon / as A. en-
feoffeth. B. of certayne lande to haue
and to holde to the same. B. and hys
heires vpon condycyon that the same.
B. and hys heires shall pay / or do to
be payde to the forsayde. A. and to his
heires perelye suche a rent. &c. In thys
case withoute any more sayenge the
feoffe haue estate vpon condycyon. &c.
Also if the condycyon were suche (þat)
vydded alway that the forsayde. B. pay
or do to be payde to the fore sayde. A.
suche a rent. Or yf they were thus / so
that the fore sayde B. pay / or do to
be payde suche rent. In these
cases / withoute any more
sayenge the feoffe haue
estate but vpon
condycyon / so
that yf
he per forme nat the condycy-
on / the feoffoure and his
heires may en-
tre. &c.

¶ Also other wordes there be in a
dede that causeth the tenauntes to be
cōdicynels as vpon suche a feoffmēt
a rent

Ca. v.

**Upon a
condy-
cyon.**

þat

Ca. v.

Condy-
cio im-
plicita.

a rent is reserved to the feoffour. &c. and after it is put in the dede / that yf it chaunce the fore sayde rent to be be-
hynde in parte or in al. &c. that than it shalbe lawefull to the feoffour / and to his heyres to entre. And this is a dede upon condicyon. But ther is diuersyte betwene these wordes / yf it chaunce &c. and the wordes nexte aforesayde. For this worde / if it chaunce. &c. is nought worth to such condicyon / but yf it haue these wordes folowynge / that is to say that it shalbe lesfull to the feoffour / and to his heyres to entre. &c. But in these cases aforesayde / it nedeth nat by the lawe to put such clause / that is to say that the feoffour and his heyres may entre. &c. for thys that they may so do by force of the wordes aforesayde / by cause they conspue in them selfe in y^e lawe a condicyon / that is to saye that the feoffour and his heyres may entre. Yet it is comonly in all suche cases aforesayde to put suche clauses in the dedes / that is to saye yf the rent be be-
hynde. &c. yf it shalbe lesful to the same feoffour and his heyres to entre. &c.

and

Estates upon condition. fo. lxxxvi.

And this is well done to that entente
for to declare and expresse to the laye
men that be nat lerned in the lawe the
maner and the condy cyon of the scoffe
ment. &c. As a man seased of lande as
of franke tenement/ let the same lande
to an other by dede cudented for terme
of yeres/ yeldynge vnto hym certayne
rente / it is vsed to put in the dede that
if the rent be behynde at y^e day of pay
mente by a moneth. &c. that than it
shall be lawfull to the lessour to dys
trayne. &c. and yet the lessour may dys
trayne of comon ryght for the rent be
hynde. &c. though suche wordes neuer
were set in the dede. &c. ¶: * : ¶

¶ Also if any feoffment be made vpo
suche condy cyon/ that yf the feoffoure
pay at a certane day. &c. xx. li. of money
that than the feoffoure maye recentre.
&c. In this case the scoffe is called te
naut in mortgage/ that is as muche
to say in frenche as mortegage and in
latyn (mortuum vadum) and in en
glish a deade pledge. And it semethe
that the cause why it is called morte
gage / is for that that it standethe in

R. l.

double








**Signus
mortu
um**

Ca. v.

Lytelton.

Lib. 3.

doubte if the feoffour mape pay at the day lymitted such a sum or nat/ and if he pay nat/ tha the lande that is put in pledge vpon condycyō for the paymēt of the money is gone from hym for ever. And so deade as to the tenant. &c.

¶ Also as a man may make a feoffement in fe in mortgage/ so may a man make a gyfte of the raple in mortgage & a lease for terme of lyf / or for terme of yeres in mortegage. And all suche tenauncies be tenauncies in mortgage after the state that they haue in the landes. &c.       

¶ Also if a feoffemēt be made in mortgage vpon condycyon that y^e feoffour shall pay suche a sūme at suche a daye. &c. as it is betwene them by they^r dede endēred accorded & lymytted/ though the feoffour dye before the day of payment. &c. yet if the heyre of the feffour pay the same sūme within the daye to the feoffee/ or profer hym the money/ & the feoffee refuseth to receyue it / than may the heyre entre in to the landes. And yet the condycyō is yf the feoffour pay suche a sum at suche a day. &c. and
na

Estates vpo condicyd. fo. xcviij.

that makynge mencyon in the condycyon of any paymēt to be made by his heyre. But for this that y^e heyre hath interest of rygh in the condycyon. &c. and the entei was but that the money shulde be payde at the daye set. &c. and the feoffe hath no moze damage to be payde by the heyre / than though he were payde by the father. &c. for thys cause if the heyre pay y^e money or lendeth the money at the day set. &c. and the other refuseth it he may wel entre. But yf a straunger of hys owne hedde that hath no interest. &c. wolde lende and pay the money at a day set / the feoffe is nat bounde to receyue it. &c.

¶ And it is to be hade in mynde that in suche case where such lawfull tender of the money is made and the feoffe refuseth to receyue it / wherfore the feoffour or his heyres to entre. &c. than the feoffe hath no remedy to haue the money by the comon lawe / for thys that it shalbe arected his owne folly that he refused the money whan lawfull proffer was made of it vnto hym. &c. **¶**

¶ Also if a feoffement be made in suche

R. ii.

condycy

Ca. b.

Ca. v.

condycyon that if the feoffee pay to the feoffour at suche a daye betwene them lymitted. xx. li. that if the feoffee shal haue the lande to hym & to his heires and if he faile to pay the money at the daye. &c. that than it shal be retull to the feoffour or to his heires to entre. &c. and after before the day set the feoffee sellith the lande to an other / and therof maketh a feoffement vpon hym in thys case yf the seconde feoffee wyll tende the sum of money at the day set to the feoffoure / and the feoffour refu- seth it. &c. than hath the seconde feoffee estate in the lande clerely without con- dycon. And the cause is for that the seconde feoffee had interest in the con- dycon for saluacyon of his tenaunce. And in thys case it semeth that yf the fyrst feoffee after such sale of the lande wyll tende the money at the daye set. &c. to the feoffoure / that shal be good ynough for the saluacyon of the estate of the seconde feoffee / for thys that the fyrst feoffee was pryncipal to the con- dycon / and so the tender of any of the is good ynough. &c. ¶ : * : * : ¶

Also

Estates by condition. fo. lxxxviii.

Also if the feoffment be made upon condycyon that if the feoffour paye a certayne sume of money to the feoffee that than it shall be lesfull to the feoffour and to his heyres to entre. &c. In thys case yf the feoffour dye before the daye of payment / and the heyre wyl tender to the feoffe the money / suche tendes is voyde / for this that the tyme within whiche the tender ought to be made is paste. For whan the condycyon is that yf the feoffour paye the money to the feoffee / thys is as muche to say / that yf the feoffoure durynge hys lyfe paye the money to the feoffee. &c. And whan the feoffour dyeth / thā the tyme of the tender is paste. But other wyse it is where a day of payment is lymyt ted / & the feoffour dyeth before the day than may the heyre tender the money as it is afor sayde for this that the tyme of the tender was nat past by the dethe of the feoffour. Also it semeth in suche case where the feoffour dyeth before y^e day of payment if y^e executors of the feoffour tender the money to the feoffe at the day of payment / & tender is good

Ca. b.

In what tyme tender shall be.

R. iii.

ynough

Ca. v.

Wynterton.

Lib. 3.

ynough. And yf the feoffee refuse thys
the heyre of the feoffour may enter. &c.
And the cause is for thys that the exe-
cutours represent the parson of theyr
testatour. &c. And note wel y^e all suche
cases of condempnacion of payment of cer-
tayne sūme in glose touchynge landes
or tenementes; if lawul tender be ones
refused/ he y^e ought to pay the money
is therof assoyled & clerely dyscharged
for ever after. ¶: * : * : * : *

¶ Also yf the feoffee in mortgage be-
fore the daye of payment that shall be
made vnto hym make hys executours
and dye / and hys heyre entretch in to
the lande as he ought. It semeth in
this case that y^e feoffour ought to pay
the money at the day set to the execu-
tours/ and nat to the heyre of the feoffe
for this that the money at the begyn-
nyng belonged to the feoffe in maner
as a duty. And shalbe vnderstāde that
the estate was made/ bycause of borow-
ynge of the money of the feoffee, or
bycause of an other duty. And for this
the payment shall nat be made vnto y^e
heyre of the feoffe as it semeth. But the
wordes

Estates by a condycion. fo. xcix.

wordes of the condycion may be such **Ca. v.**
the paymēt shalbe made vnto y^e heyre

as yf the condycion were that the feof
four pay to the feoffee or to hys heyres **where**
suche a sume at suche a daye. &c. There **tender**
after y^e deth of the feffe if he dye before **shall be**
y^e day lymitted/thā y^e paymēt ought **made.**

E Also in suche case of a feoffement in
mortgage a questyon hathe bene de-
maunded in what place the feoffour is
bounde to tender the money to the fe-
offee at the daye set. &c. And some haue
sayde that vpon the lande so holden in
mortgage for this that the condycion
is dependant vpon the lande / and they
haue sayde that yf the feoffour be redy
vpon the lande to pay the money at y^e
feeste or day set / and the feoffee be not
at that tyme there / that than the feof-
four is excludet & dyscharged of paye-
ment of the money for thys that no de-
faute was i hym / but it semeth to some
men that the lawe is contrary / & that
defaute is in hym. For he is bounde to
seke the feoffe if he be thā at any tyme i
any maner of place within the realme of

R. iiii. Englands

Ca. 6.

Hytelton . Lib. 3.

Englande . As if a man be bounde in
an obligacyon of xx. li. vpon condicyon
indosed vpon the obligacyon that yf
he pay to hym to whome the obligacyon
is made at suche a day .x. li. that
than the obligacyon of .xx. li. shall lose
his force and shalbe holden for nought
in thys case it behoueth hym yf made
the obligacyon to seke hym to whom
the obligacyon is made / yf he be with
in Englande / and at the day set to ten
dre to hym the sayde .x. li. .&c. And other
wyse he forfeiteth y^e sum of .xx. li. com
prysed within the obligacyon / & so it
semeth in y^e other case .&c. And though
that sum haue sayde yf the condicyon
is dependaunt vpon the lande yet this
is nat proued that the fesaunce of the
condicyon to be performed ought to be
made vpon the lande .&c. No more tha
if the condicion were that the feoffour
shulde do at suche a day .&c. an especial
corporall seruyce to y^e fesse nat namig
the place where the corporall seruyces
shulde be done . In this case the feof
four ought to do such corporal seruyce
at the day lympt to the feoffe in what
so euer

Ca. 6.

~~2~~

P.b.

and

As. b.

and of tender of an other sum in grosse
which is nat goynge out of any laude.
And therfore it shalbe sure and a good
thyng for them that wyl make suche
seoffement in mortgage to put and set
a speccyall place where the money shall
be payde. And the more speccyal that it
is put the better it is for the seoffoure.
As if. A. enfeoffe. B. to haue to hym &
to hys heyres vppon suche condycyon
that if. A. pay to. B. in y^e feste of saynt
Mychel the archaūgel nexte comyng
in y^e cathedral church of saynt Poule
of london within. iiii. houres nexte be-
fore the houre of none of the same feste
at the robe losse of the north doore with
in y^e same church/ or at any other cer-
tayne place within the same church/ &
than it shalbe lesful to the forsayde. A. &
to his heyres to entre. &c. In such case
it nedeth nat to seke the seoffe in any
other plate but in the place compysed
in the indenture/ nor to be there more
longer tyme than the tyme specysyd
in the same indenture for to tender / or
pay the money to the seoffe. &c.

Also in suche case where the place
of

Estates vpon condycyō. fo. Cii.
 of payment is lymyt/the feoffee is nat
 boude to receyue the payment in none **Ca. v.**
 other place but in the place so lymyt-
 ted. ✱: But yet yf he receyue the pay-
 ment in any other place / thys is good
 ynough and as stronge for the feoffour
 as yf the rescyte hadde be in the same
 place so lymptted. &c. **Satisfaccyō.**
 ¶ Also in thys case of feoffement in
 mortgagge if the feoffour pay the feoffe
 an horse or a cuppe of siluer or a rynge
 of golde or any other suche thyng in
 full satisfaccyō of p^r money & the other
 thys receyueth/ thys is good ynoughe
 and as stronge as yf he hade receyued
 the sume of money/ though the hors/
 or any of the other thynges be nat the
 twēty parte worth in value of y^e sum
 of money for this y^t the other hath ac-
 cepted it in playne & full satisfaccyon.
 ¶ Also yf a man enfranchise an other in fe
 vpon condycyon that he & his heires
 shal yelde to a straūger & to his heires
 a yereley rent of .xx. s. and if he and his
 heires fayle of payment of thys/ that
 shan it shal be lesful to the feoffour and
 to hys heires to entre/ thys is a good
 condiction

Ca. 6.

condempnēd. And yet in this case though
suche a yerely rent be called an annuel
rent/thys is nat pperly a rent/for if it
shalbe rent/ it ought to be rent seruyce
rent charge/or rent secke/ and yet it is
none of them/for if the straunger were
seased of thys and after it were to him
denyed he shall neuer haue assyse of
thys/for this that it issueth nat out of
any landes/and so the straunger hath
no remedy if any such yerely payment
be had behynde in thys case / but that
the feoffour and his heyres may entre
ac. and yet yf the feoffour & hys heyres
entre for defaute of payment/thā such
rent is gone for euer. And so such rent
is but a payment set to the tennaunte
and to his heyres/that if they wyl nat
pay thys after the forme of the enden-
ture that they shal lease theyr lande by
the entre of the feoffour or hys heyres
for defaute of payment. And in thys
case it semeth that the feoffee and hys
heyres ought to seke the strāger & hys
heyres if they be in Englande bycause
that no place is lympytted where the
payment shalbe made / & bycause that
suche

Estates by a condicion. Fo. Ctit.
Such rent is nat going out of any lande
ec. And here note wel. ii. thinges. One
is that no rente that is properly sayde
rent maye be reserued vpon any feoffe-
ment/gyfte/or lease / but onely to the
feoffour or to the lessoure / or to theyr
heyrres / and in no maner maye be re-
serued to any straunge parson. But
yf. ii. Joyntenautes make a lease by
dede indented reseruig to the one a cer-
tayne yerely rente yt is good ynoughe
to him to whome the rent is reserued/
for thys that he is prync to the lease
and nat a straunger to thys. ec. The
seconde thynge is that no entre or re-
entre which is al onc/may be reserued
nor gyuen to any parson but onely to
the feoffour or to the donoure or to the
lessour / or to theyr heyrres / and suche
entre may nat be alpyened nor graunted
to any parson. For if a man let landes
to an other for terme of lyfe by endeu-
ture / yeldynge to the lessoure / and to
hys heyrres a certayne rent/and for de-
faute of payment a reentre. ec. yf after
the lessour by a dede graunt the reuer-
cion of the lande to an other in fee and
the

Ca. v.

Marie.

Ca. b.

Hytelton.

Lib. 3.

the ternaunt for terme of lyfe attorneth
sc. if the rent after be behide / y^e graunte
of the reuercyon may distrayne for the
rent / for thys that the rent is incydent
to the reuercyon but he may nat entre
in to the lande and put out the ternaunt
as the lessour myght or hys heires yf
the reuercyon had bene continued in
them. sc. and in thys case the entre is
taken away at al tymes for the graunt
of the reuercyon may nat entre (Causa
qua supra) And the lessour nor hys heires
maye nat entre / for yf the lessoure
may entre / than he ought to be in hys
fyrste estate. sc. & that may nat be / for
thys that he hath from hym the reuer
cyon. sc. ¶: N: X: ¶: X: N: ¶:

¶: ¶: ¶:

¶ Also yf there be lord and ternaunte
and the ternaunt make suche a lease for
terme of lyfe yeldynge to the lessour &
to hys heires suche yerly rent / and for
defaute of paymēt a reentre. sc. if after
the lessour dye without heire durynge
the state of the ternaunt to terme of lyfe
by which the reuercyon cometh to the
lord by way of eschete and after the
rent of



Estates byon cōdicyon. Ro. Liii.
rent of the tenaunte to terme of lyfe is
behynde / the lord may distrayne the
tenaunte for the rent behynde / but he
may nat entre in to the lande by force
of the condicyon. &c. for this that he is
nat heyre to the feoffour. &c.

Ca. b.


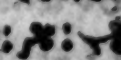
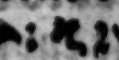




Also yf lande be graunted to a man
for terme of yeres vppon a condycyon
that yf he pay to the grauntour with-
in. ii. yeres. xl. markes / that than he
shall haue the lande to hym and to his
heires. &c. In thys case if the graunte
entre by force of the graunt / and after
he payeth to the grauntour. xl. markes
within the two yeres / yet he hath no
tynge in the lande but for terme of
the. ii. yeres / for thys that no lpuere of
sepsyn was to hym made at the begyn-
nyng / for if he had franke tenement
and see in thys case / bycause he hath
performed the cōdicyon. Than shulde
he haue franke tenement by force of
the fyrste graūt where no lpuere of sep-
syn was made there of / whiche shulde
be agaynst reason. &c. But if the graū-
tour had made lpuere of sepsyn to the
graunte

Ca. v.

Hyrtelton. Lib. 3.

grauntee by force of the graunt / than
hath y^e graunte the franke tenement
and the fe vpon the same condycyon. &c.
¶ Also yf lande be graunted to a man
for terme of .v. yeres / vpon condycyon
that he pay to the grauntour within
the fyrste .ii. yere .xl. markes / that than
he shall haue fee or els but for terme of
the .v. yeres / & lpuere of seylsyn is made
to hym by force of the graunt. Nowe
he hath the fee symple condycyonell. &c.
And yf in thys case the grauntee paye
nat to the grauntour the .xl. markes
within the same .ii. fyrste yeres / than
immedyatly after the same .ii. yeres
the fee and the franke tenement is and
shall be adiuged in the grauntour / for
this that the grauntour may nat after
the .ii. yeres incontynent entre vppon
the grauntee / for this that y^e graunte
hath yet tittle by .iii. yeres to haue and
to occupy the lade by force of the same
grauntee. And so for this that the con
dicion of parte of the graunt is broken
and the grauntour maye nat entre
the lade shall put the fee in franke te
nement in the grauntour. For yf the
graunt

Estates vpon a condycyon. fo. ch.
grauntour in thys case made wast/
than after the brykynge of the condy:
cyon. &c. & after the.ii. yerres y^e graun-
tour whi haue his wyf of wast/ & this
is a good profe that the reuercyon is
in hym. &c. But in suche case of feoffe-
mentes vpon condycyon where the fe-
offour may entre lawfully for the con-
dycyon broken. &c. There the feoffour
hath the franke tenement before the
entre. &c.     

Also yf a feoffement be made vpon
suche condycyon that the feoffe shall
gyue the lande to the feoffour/ and to
the wyf of the feoffour to haue and to
holde to the and to the heyres of their
ii. bodyes engedred/ and for defaute of
suche yssue to remayne to the ryghte
heyres of the feoffour. In this case yf
the husbande dye/ lyuinge the wyf be
forestate in the tale made to hym/
than oughte the feoffe by the lawe to
make estate to the wyf as lyke to the
condycyon / and as lyke to the entente
of the condycyon as he may make it /
that is to say/ to let the land to y^e wyf
for terme of lyfe without enprechemēt

Ch. 6.

of waste / the remayndre after her de-
 cede to the heyres engendred of the bo-
 dy of her husbände and hers / and for
 defaulte of suche yssue the remayndre
 to the ryghte heyres of the husbände.
 And the cause why the lease shall be
 made in thys case the woman soole /
 withoute enpechement of waste is for
 thys that the condicon is y^t the estate
 shalbe made to the husbände / and bys
 wyfe in the taylor. And yf suche estate
 had be made in the lyfe of the husbände
 than after the deathe of her husbände
 she had had estate in the taylor sole / whi-
 che estate is without enpechement of
 waste / and so it is reason that yf after
 a man may make estate to the entente
 of the condicon. &c. that he shal make
 . &c. though he shan nathe have estate
 in the taylor as she myght have had yf
 the gyfte in the taylor had be made to
 the husbände and to her in the lyfe of
 her husbände. &c. : G : * : A : G

¶ Also in thys case if the husbände / &
 the wyfe haue issue and dye before the
 gyfte in the taylor made vnto him. &c.
 than ought the feoffe to make estate to
 the

Estates vpon a condycyō. Fo. cbi.
the yllue & to the heyres of the father
and mother eugē dzed / and for defaute **Ca. v.**
of ſuche yllue. & the remayndre to the
ryght heyres of the hufbande. &c. And
the ſame lawe is in other caſes ſembla
ble. And yf ſuche a feoffoure wyl nat
make ſuche eſtate whan he is reſona
bly requyred by theym that oughte to
haue eſtate by force of the condycyon.
&c. Than maye the feoffoure / and hye
heyres entre. &c. ¶ : * : * : ¶

Alſo yf a feoffement be made vpon
condycyon that the feoffe ſhall enfeſſe
many men to haue and to holde to the
and to thei: heyres for euer / and all
they that ought to haue eſtate dye be
fore any eſtate made vnto them / than
ought the feoffe to make the eſtate to
the heyres of hym that ſuruyue of the
to haue and to holde to hym / and the
heyres of hym that ſuruyued. &c.

Alſo yf a feoffement be made vpon
condycyō to enfeſſe an other or to giue
in the tayle to an other. &c. if the feoffe
be fore the perſormynge of the condy
cyon enfeſſe a ſtrange yſon / or make
a leaſe for terme of lyfe / than maye

La. b.

the feoffour or his heires entre. &c. for
 thys that he hath disabled hym selfe to
 perfoyme the condycyon / in so muche
 that he made estate to an other. &c. In
 suche maner it is yf the feoffee before
 the condycyon perfoymed let the same
 lande to a straunger for terme of yeres.
 In this case the feoffour or his heires
 may entre. &c. for thys that the feoffee
 hath disabled hym selfe to make estate
 of the tenementes accordynge to that
 that was in the tenementes when estate
 therof was made vnto hym / so; yf he
 wyll make estate accordyng to the con
 dycyon. &c. thā may y^e feoffe for terme
 of yeres entre & put out hym to whom
 the estate is made. &c. and to occupye
 thys durynge his terme. And many
 haue sayde that yf such a feoffement be
 made to a man sole vpon the same con
 dycyon / and before that he hath per
 foymed the condicion he taketh a wife
 than the feoffour or his heire may in
 continēt entre / for thys that if he hath
 made estate accordynge to the condy
 cyon / and after dieth / his wyfe shall be
 endowed and may recouer her dower
 by a

Estates vpon a condicyn. *fo. cbi.*
by a wyte of dower. &c. And so by ta-
kyng of a wyfe the tenementes be put
in an other plyte / than they were at
the tyme of the feoffement vpon condi-
cyon / for this y^e than no such woman
was dowable / nor shulde be endowed
by the lawe. &c. In the same maner it
is yf the feoffoure charge the lande by
his dede of rent charge before the per-
forming of condicyn or be bounde in
a statute staple or statute marchaunte
that in suche cases the feoffoure & hys
heires may entre. (*Causa qua supra*)
For who so euer cometh to the tene-
mentes by the feoffement of the feoffe/
than the tenementes muste be lyable /
and be put in excecucion by force of the
statute aforesayde / But whan the feof-
foure or hys heires for the cases afores-
sayde haue entred so as they ought as
it semeth. &c. Than all suche thynges
that before suche entre might trouble
or encombre the tenementes so gyven
vpon condicyn / as touching the same
tenementes be vtterly defected. &c.

Also yf a man make a dede of feoffe-
ment to an other and in the dede is no

D.iii.

condicyn

Ca. v.

As. b.

condicyon. &c. And whan the feoffour
wyl make to hym lyuere of seafyn by
force of the same dede/he maketh lue-
re of sefyn vpon certayne condicions.
&c. In thys case nothynge of the tene-
mentes passeth by the dede / for thys
that the condycyon is nat compysed
in the dede/and the feoffement is of su-
che force / as yf no suche dede had ben
made there of. &c. ¶ * : * : *

¶ Also yf a feoffement be made vpon
suche condycyon that the feoffee shall
alpen the lande to man / thys condy-
cyon is voyde / for thys that whan a
man is enfeoffed in landes or teneme-
tes he hath the power to alpen them to
some person by the lawe for if such con-
dicyon shulde be good / than the condy-
cyon putteth hym out of al the power
that the lawe gyueth which shulde be
agaynst reason and for this suche con-
dicyon is voyde. But if the condycyon
be such y^e the feoffee shall nat alpen to
one such naminge his name/or to any
of hys heires or his yssue. &c. or suche
other lyke y^e which condicions taketh
nat away all the power of alpenacyon
of the

Estates vpon a condicion. Jo. chiss.

the fesse. &c. than such condicio is good **Ca. v.**

Also yf tenamētes be gyuen in the
tayle vpon suche condicyon y^t the te-
nant in y^e tayle noz hys heires. &c. shal
nat alven in fe noz in tayle noz for tme
of others lyfe but for theyr owne liues
&c. suche alienacyon and condicyon is
good. And the cause is for this y^t whā
he maketh such alvenacyon & disconti-
nuance/ he doth contrary to the entent
for whiche the Statute of Westmynstre
the seconde was made/ by whiche esta-
tute the estates in y^e taile be ordeyned
for it is proued by the wordes cōprised
in the same estatute / y^t the entente of
the makynge of the same estatute was
that the wyll of the donour in such ca-
ses shulde be obserued. And whan te-
naut in the tayle maketh suche dys-
continuance/ he dothe the contrarye
to that. &c. And also in estates in the
tayle of any tenemētes whan the reuer-
cion of the fe symple is an other persō
whan suche discontinuance is made
than y^e fe symple in the reuercyo or the
fe symple in the remayndre is dyscon-
tinued/ and for to put out that the te-

D. iiii.

naunte

Ca. v.

tenaunte in the taylor shall do no suche
thyng agaynst ryght/ suche condycy-
on is good as it is aforseyde. &c.






C Also a man maye geue lande in the
taylor vpon such condycyon/ that if the
tenaunt in the taylor/ or hys heires as-
lyen in fee or in taylor / or for terme of a
nothers lyfe. &c. and also that if all the
yssues comynge of the tenaunt in the
taylor be dede without issue/ that than
it shall be lefull to the donour & to hys
heires to entre. &c. And by suche way
the ryghte of the taylor maye be saued
after such discontinuance to the issue
in the taylor yf there be any/ so that by
way of entre of the donour/ or of hys
heires the taylor shal nat be defeted by
suche condycyon/ and yet if the tenaunt
in the taylor in thys case or hys heires
make any discontinuance. &c. He in
the reuercyō or hys heires after thys
that the taylor is determyned for de-
faulte of yssue. &c. may entre in to the
lande by force of the same condycyon
and shal nat be dryuen to sue a writ of
formedon in the reuercyon. &c.

C Also a man may nat plete in any
accyon

Estates vpon a condycion. fo. cix.
 accyon that estate was made in fee in
 the taylor / or for terme of lyfe vpon con-
 dicion / but yf he vouche a recorde ther
 of / shewe a wryttinge vnder scale
 prouyng the same condycion / for it is
 a comon erudycion and lerninge that
 a man by pledyng shal nat defete any
 estate of franke tenement by force of
 any suche condycion / but yf he shewe
 the prose of suche condycion in wry-
 ttinge. &c. except it be in some especiall
 cause / but of chatels reals as of a lease
 made for terme of yeres / or of graunt
 of wordes made by wardens in che-
 ualey / and of suche other. &c. A man
 may plede that suche gyftes or graun-
 tes were made vpon condycion. &c.
 without shewyng of any wryttinge of
 condycion / and in the same maner a
 man may do of gyftes / and grauntes
 of chatels personels / and of cōtractes
 personels. &c. ¶

Also though that a man in some ac-
 cyon maye nat pleade an accyon that
 toucheth and concerneth franke tene-
 ment without shewyng of wryttinge
 thereof / as it is afore sayde / yet a man
 may

Ca. v.










may be holpen vpon suche condycion
by the verdyte of twelue men taken at
large in assyse of nouell dysseysyn / or
in some other accyon where the Justy-
ces wyll take the verdyte of the. xii. iu-
rours at large . As put the case that a
man seased of certayne lande in fe let-
tethe the same lande for terme of lyfe
without dede vpon condycion to yelde
to the lessour a certayne rente / & for de-
faute of paymēt a reentre . &c. by force
of whiche the lessour is seased as of
franke tenement and after the rent is
behynde / by which the lessour entreteth
in to the lande / & after the lease array-
neth an assyse of nouell dysseasyn of
the lande agaynst the lessour / the
whiche pledeth y^e he dothe no wroge
ne no dysseasyn and vpon thys the as-
syse is taken. :: : : : :

In thys case the recognytours of
the assyse may saye & yelde to the Jus-
tyces thei^r verdyte at large vpon all
the matter / as to say that the defen-
daunt was seased / and so seased let the
same lande to the playntiffe for terme
of hys lyfe to yelde to the lessour suche

an


Estates vpon a condicyon. Fo. cr.
 an annuell rent payable at suche a feste
 and vpon suche a condicion that if the
 rent be behynde at any such feste that
 it ought to be payde / that than it shall
 be lefull to the leassour to entre. &c. by
 force of which lease the playntyfe was
 sealed in hys demcane as of franke te-
 nement / & after the rent was behynde
 at suche a feste in suche a yere. &c. for
 which y^e leassour entred in to the land
 vpon the possession of the lease / and
 payeth the dyscessyō of the Justices /
 if thys be a dysseysin done to the plain-
 tyfe or nat. And that for thys that it
 apperethe to the Justices that thys
 was no dysseysin done vnto the playn-
 tyfe In so muche that the entre of the
 leassour was lawefull vpon hym / the
 Justices ought to gyue iugemēt that
 the playntyfe shall take not bringe by
 his wyrt of assyse. And so in suche case
 the leassour shall be holpen / and yet no
 wyrtynge was neuer made of the con-
 dycyon / for as well as the Jurours
 may haue knowlege of the condycyon
 that was declared and reuersed vpon
 the lessee. ¶ In the same maner is
 of

Ca. 5.

of seoffment in fee / or in gyfte in the
tyle upon condycion though the neuce
wrytynge were made thereof. &c. And
as it is sayde of a verdyte at large in
assise. &c. :  :  :  :  :  :  :  :  :  : :

Estates upon a condicyn. fo. xi.
hym in barre howe the lessour that is
playntife made a lease to p^r defendaut
for terme of lyfe sauynge the reuercyn
of the playntyfe the whiche is a good
plee in barre in so muche p^r he knowe
legeth the reuercyon to be to the plau
tyfe / and in thys case hath no mater
to helpe hym / but the condicyon made
vpon the lease / and that he maye nat
pledge / for that he hath no wrytynge /
and in so muche that he maye nat an
swere to the barre / he shalbe barred.

Ca. v.

And so in thys case ye may se p^r a mā
is leased and he shal haue no assyse.
And yet yf the lessee be playntife / and
the lessoure defendaut / he shal barre
the lessee by verdyte of the assyse. But
in thys case where the lessee is defen
daunt yf he wyll nat plede the saide ple
in barre / but plede no wronge nor dis
seysin / than the lessour shal recouer by
assyse. &c. (Causa qua supra): 

Also bycause suche condycions be
mooste comonly put and specyfied in
dedes endetted som lytell thyng shalbe
sayde here to the my son of endentures
of a dede poll conteyning condycions
And

Ed. b.

And it is to wete that if the endenture be by pertyte of tripercite/ or quattrip cite/all the partyes and the endenture be but on dede in the lawe / and every party of the endenture is of hym selfe of as greate force and effecte as all the partyes to gider. And the makynge of endentures is in .ii. maners. One is to make them in the thyȝde person / an o- ther maner is to make them in y^e first parson. The makynge in the thyȝde parson is as in suche forme.

The
fourme
of an In
denture
in the
thyȝde
person.












¶ Thys endenture made betwene. A. of. B. of the one partye / and. C. of. D. of the other parte wytnessyth that the foresayde. A. of. B. hath gyuen and graunted and by thys present dede en- dented hath confyrmied to the foresaide C. of. D. suche lande to haue. &c. vpon the condicyon. &c. In wytnes wherof the ptyes besofsayde interchaungeably haue put to theyȝ scales / or els thus. In wytnes wherof to one parte of thys endenture remayning w the said. C. of. D. the foresaid. A. of B. hath put to his seale & to the other parte of the said en- dentur remayning with þe said. A of B
the











States vpon a condicyō. Fo. cruii.
the said C. of D. hath put to his scale
giuē. &c. Suche endenture is called en
dētut made in y^e thyrde parson / for thys
þ the verbes. &c. be in the thyrde persō &
suche forme the endentut is the moze
sure makynge / for this that it is moze
comonly vsed / the makynge of endentu
res in the fyrst parson is in such forme
¶ To all true chrysten people to whō
this p̄sent wryting endented shal come
A. of B. gretynge in our lordes cuerlas
tyng / knowe ye me to haue gyuen and
graunted / & by thys my p̄sēt dede en
dētēd to haue confirmed to. C. of D. su
che land. &c. Or els thus / knowe al mē
that be p̄sent & them that be to come
that J. A. of B. haue gyuen & graunted
and by thys my p̄sēt dede endented
haue confirmed to. C. of D. such lande
&c. to haue. &c. vpon condicyō folowing
In wytnes wherof as wel J the sayde
A. of B. as y^e forsaide. C. of D. to these
endentures intzchaūgeably haue put
to our seales / or els thus. In wytnes
wherof to one part of thys endenture
I haue putte to my scale / and to the
other parte of the same endenture the
foze

Ca. xi.

An In
denture
in the
fyrste
person.

Ca. v.

foresayde. C. of. D. hath put to hys
scale. &c. :  :  :  :  :  :  :  :  :  :  :  : :

Estates vpon condicyn. fo. ciii.
of his remayndre. In thys case he is
holden to performe all the condicions
comprysed within the endenture as y^e
tenaunte for terme of lyfe ought to do
in hys lyfe / & yet he in the remayndre
neuer sealed any parcell of the enden-
ture / but the causes is that in so much
that he entreth / and agree the to haue
the lande by force of the endenture / he
is holden to performe the condycyon
within the endenture / yf he wyl haue
the lande. &c. :  :  :  :  :  :  :  :  :  :  : :

Ca. v.

The ple
dyng
of a con
dycon
by a dede
poll.

apperteynety nat to the feoffour / it is
myth to them that he may nat pleade
thys dede. &c. And other haue sayd the
cōtrary / & haue shewen diuers causes.
One is yf the case be suche that in the
accion betwene them if the feoffe plede
the same dede / and shewe thys to the
courte. In thys case in so muche that
the dede is in the courte the feoffour
maye shewe to the courte howe in the
dede be oþers condycions to be per-
formed of the party of the feoffee / and
for this that they be nat performed he
entred. &c. & thereto he shalbe receyued /
by the same reason whan the feoffour
hath the dede in hande / and shewe he
it to the courte / he shalbe wel receyued
to plede of thys. &c. And namely whan
the feoffour is prey to the dede / for he
ought to be prey to the dede whan he
made the dede. ¶:✱:✱:✱:

¶ Also yf two men make or do a tres-
pas to an other / the whiche releaseth
to one of them by his dede all accions
personals. &c. That withstandinge he
suth an accion of trespass agayn y^e
other / the defendaunt may wel shewe
that

Estates vpon condycion. Fo. cxliii.
that the trespass was done by him and
an other bys felowe / & that the playn-
tyfe by the dede that he sheweth forth
releaseth to his felowe all accours per-
sonals / & yet suche dede apperteyneth
to bys felowe and nat to hym / but for
this that he maye haue aduantage
by the dede if he may shewe the dede to
the courte / he may well plede therfore
by the same reason in the other case
whan the feoffoure ought to haue ad-
uantage by the condycion comp:po-
sed within the dede poll.

Also yf the feoffee gaue oz graunted
the dede pol to the feoffour such graunt
shalbe good / and than the dede and the
properte of the dede apperteyneth to
the feoffour. And whan the feoffoure
hath the dede in hande and pledeth it
to the courte / it shalbe the moze vnder-
stande that he came to the dede by a
lawful meane thā by a torcyous meane
and so it semyth that they may well
plede suche a dede pol that comprehen-
deth condycion. &c. yf he haue the dede
in hande. &c. *(Ideo semper querre de
tribus / quia per rationes peruenitur*

Ca. 6.

Estates
vpon a
condy-
cyon in
lawe.

ad legitimam rationem. **G**: *2. **E**states that men haue vpon condycyon in the lawe be suche estates that haue a condycyon in the lawe anered to them thowhe it be nat specified in wytyngc/ so as a man graunt by his dede to an other/ the offyce of a parker/ shyp of a parkc to haue and to occupy the same offyce for terme of hys lyfe/ the estate that he hathe in the offyce is vpon condycyon in the lawe/ that is to saye that the Parker well and truely shall kepe the parkc/ and do thys that to hys offyce apperteyneith to do/ or otherwise/ that it shall be lefall to the geauntoure and to hys/ heyses to put hym out/ and to graunte that to an other yf he wyll. &c. and suche condycyon as is vnderstande by the lawe to be anered to some thyngc is as stronge/ as yf the condycyon were set or put in wytyngc. In the same maner it is of graūtes of offices/ of Stewardes constables/ bedles/ baylifes/ and other officers/ but if such offyce be graūted to a mā to haue & to occupy by hym or by his deputy thā if ꝑ offyce be occupied by hym/ or his deputy as it ought by the

Estates vpon condicyn. Jo. crb.
lawe to be occuppyd/thys suffylcth for **Ca. v.**
him/or els the grauntour or his heyres
may put hym out as it is aforesayd.

E Also estates of landes or tenementes
mape be vppon condicyn in the lawe
thoughe that vppon the estate made /
there was no rehersal made of the co-
dicyns/as put the case that a lease be
made to the husbande and his wyfe to
haue and to holde to them durynge the
couerture by twene them/ in thys case
they haue estate for terme of their two
lyues vpon condicyn in lawe/ that is
to say yf one of them dye or yf deuorze
be made bytwene them / that than it
shall be lesfull to the leassoure/ and bys
heyres to entrc. &c. and that they haue
estate for terme of theyre two lyues/ it
is proued thus. Every man that hath
estate or franke tenement in any lades
or tenementes / eyther he hath estate
in fe/ or in fe tayle/or for terme of lyfe/
or for terme of an others lyfe / and by
suche lease they haue franke tenement
But they haue nat by that graunt fee
nor for tayle / nor for terme of an o-
thers lyfe. Ergo they haue estate / for

P.iii.

terme

Ca. v.

A gene-
ral wyte
& a spe-
cial de-
claracy-
on.

terme of theyr two lyues / but thys is
vppon condicyon in the lawe in forme
aforesaid And in this case if they make
waste the leassour shal haue agaynst
them a wyte of waste / supposynge by
his wyte (Quod tenent ad terminum
vite) &c. but in hys plee he shal declare
howe & in what maner the lease was
made in þe same maner it is if an abbot
make a lese to a mā to haue & to holde
during the tyme that the leassour is ab-
bot. In this case the lease hath estate
for terme of hys owne lyfe / but thys is
vppon condicyon in lawe / that is to say
that if the abbot dye / or resygne to be
deposed / that it shalbe lesful to his suc-
cessours to entre. &c. Also a man maye
se in the booke of assyse. Anno. rrrviii.
E. iii. a ple in assyse in this forme that
ensueth. Assyse of nouell dysseyn was
somtime brought agaynst one. A. that
pledged to the assise and was founde by
verdyte that y^e auncestre of the playn-
tife deuylded the tencementes to be solde
by the defendaunt that was his excec-
tour to make distrybucyon of the mo-
ney for hys soule / & it was founde that
a man

Estates vpon condiciō. Fo. cxvi.
a man after the dethe of the testatoure **Ca. v.**
tenderyd him certayne some of money
for the tenementes/ but nat to the value
and that the exccutour after helde the
tenementes in hys owne hande by. ii.
yere to the entente to haue solde the te
nementes the more deryer to some other /
and it was founde that he had al thys
whyle after taken the profytes of the
tenementes to hys owne vñe without
any thyngge doinge for the soule of the
dede. Whombray the exccutour in such
case is holden by the lawe to make the
sale as sone as he may after the death
of the testatoure/ & it is founde that he
refused to make the sale & so y^e defaute
was in hym/ and also by force of the de
uise he was holden to haue put all the
profytes of the sayde tenementes to the
dethes vse ! & it is founde that he hath
takē thē to hys owne vse/ & so an other
defaute is in him/ wherfore it was ad
iuged & the playntiffe shulde recouer .
And so it apperith by the sayd iugemēt
that by force of y^e sayde deuise the excc.
cutour had none estate nor power in & mente.
tenementes but vpon condiciō in the lawe.

And

Ca. b.

And in such cases it nedith nat to haue shewed any dede reher synge the condy cyons. &c. (Ex paucis dicif intendere plurima possis) More shall be sayde of condicyons in the chapytre of dyscentes that taketh away entre/ and in the chapytre of releffes/ and in the chapytre of dyscontinuaunce.




Dyscentes.

Cap. vi.

Ca. bi.

Dyscentes that take a way entrees be in. ii. maners/ that is to saye where p^c dyscent is in fe/ or in fe taylor. Dyscent in fe that taketh a way entre is if a man seased of certayne landes or tenementes is dysseased and the disseasour hath issue & dyeth of suche estate. But nowe the tenementes descende to the yssue or the dysseasour by course of the lawe as herze vnto hym.

And for this yt the lawe putteth p^c landes or tenementes vpon the yssue of the disseasour p^r by force of the dyscent/ so the yssue cometh to the tenementes by course of p^c lawe & nat by his owne dede/ the entre of the dysseasy is taken a way & is therof put to sue his writ of entre vpon dysseasyn agaynst the hepy of the disseasour/ to recouer the lande

Dyscente in the taylor that taketh a way entre / is if a man be diseased and the dysseasoure gyueth the same lande to an other in the taylor / & the ternaunt in the taylor hath yssue / and dyeth seased of such estate / and the yssue entreth in thys case the entre of the dysseasy is taken awaye / and he is put to sue a gaynste the yssue of the ternaunte in the taylor a wyrt of entre vpon dysseasy. &c.  : * : * :  : * : * : 

Ca. vi.

A dyscent in taylor.

And note well that in suche dyscentes that take away entres it behoueth that a man dye seased in hys demesne as in fee taylor / for dyenge seased for terme of lyfe or for terme of an others life shal neuer take away the entre. &c.

Also a dyscent of reuercyon or of re-mayndre shal neuer take away entre. &c. so y^e in suche cases that take away entres by force of dyscentes / it behoueth that he that dieth seased haue fee and franke tenemente at the tyme of his dyenge / or els suche dyscent taketh nat away entre.

Also as it is sayde of dyscentes they dyscende to the yssue of him that dieth seased

Ca. vi.

seled, &c. the same lawe is where they haue none issue/ but the tenementes dyscende to the brother/ or to the syster/ or to the vncle / or to some other cosyn of hys that dyeth seled, &c. : ¶ : * :

¶ Also yf there be lord and ternaunte/ and the ternaunte be dysseased/ and the dysseasour alenyeth to an other in fee/ and the alenyee dyeth withoute heyre and the lord entreteth as in hys eschete In thys case the dysseasour maye entre vpon the lord/ for thys that that the lord cometh nat to the lande by dyssement/ but by eschete. ¶ : * : * :

¶ 6.
¶ 7.

¶ Also if a man seled of certayne lande in fee/ or in fe taylor vpon condycyon to yelde certayne rent/ or vpon other condycyon/ thowhe that suche ternaunte seled in fee/ or in fe taylor dysseased/ yct yf the condycyon be broken in theyre lyfe or after theyre decease. &c. thys raketh nat awaye the entre of the feofour/ nor of the donour/ or of theyre heyres/ for this that the tenauncy is charged with the condycyon in the estate of the tenauncy is condycyonal/ in whose handes so ever the tenauncy shal come.

And

Dyscentes. Fo. cxviii.

And yf suche a tenaunt vpon condy-
cyon be dyscased / and the dyscassoure
dye therof seased / & the lande descēdeth
to the heyr of the dyscassour / nowe ye
entre of the tenaunte vpon condycyon
that was dyscased is taken away / but
yet yf the condycyon be broken. &c. thā
may the feoffour / or the donoure that
made the estate / or theyr heyres entre.
&c. (Causa qua supra) ¶: 2: *

Also yf a dyscassour dye seased / and
hys heyres entre. &c. the whiche endow-
eth the wyfe of the dyscassour of the
thyrde parte of the tenementes / in this
case as to the thyrde parte that is as-
signed to the wyfe in dower / inconty-
nent a none after yf the wyfe entreteth
& hath the possessyō of the same thyrde
parte / the dyscassour may lawfully entre
vpon the possessyon of the wyfe in the
same thyrde yte. And the cause is / for
this that whan the wyfe hath her do-
wer she shall be adiuged rather in im-
medyaty by her husbande and nat by
the heyr / and so as to the franke tene-
ment of the same thyrde parte, the dys-
cent is defeted / and so may ye se howe
before

Ca. vi.

before þ dowement the dysseys myghte
not entre in any parte. &c. and after y^e
dowement he may entre vpon the wyfe
and yet he maye nat entre vpon the o-
ther. ii. parties / that the heire of the
dysseasour hath by dyscente. &c.

¶ Also yf a woman be seased of lande
in fee where of I haue ryght and tyle
to entre / yf y^e womā take an husbāde
and haue yssue betwene theym & after
the wyfe dyeth seased / and after that
the husbāde dyeth / and the yssue en-
treth. &c. *: In thys case I may entre
vpon the possession of y^e yssue / for this
that the yssue cometh nat to the tene-
mentes immediatly by dyscente after
the death of hys mother .

¶ Also if a dysseasour enfeffe his father
and the fader entreth and dyeth of su-
che estate seased / by whiche the tene-
mentes descende to the dysseasour / as
to the sonne and heire. &c. In this case
the dysseasour may well entre vpon the
dysseasour / natwithstandyng the dys-
cent / for thys that as to the dysseysyn
the dysseasour shall be adiudged in but
as dysseasour / natwithstandyng the
dys-

dyscente. 3c. :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :  :

Also yf a man seled of certayne landes in hys demcane as of fee/ and hath issue. ii. sonnes & dyeth/ and y^e yonger son entreteth by abatement in the lande the whiche hath yssue/ & of thys dyeth seased and the tenementes discende to the yssue and the issue entreteth in to the lande/ in this case the elder son oz hys heyre may entre by the lawe vpon the yssue of the yonger son / natwithstandynge the dyscent/ for thys that whan the yonger sonne abated in the lande after the dethe of his father befor any entre of the elder / the lawe entendeth that he entred in claymynge as heyre vnto hys father/ and for thys that the elder brother claymeth by the same title / that is to saye as heyre vnto hys father he and hys heyres maye entre vpon the yssue of the yonger brother / natwithstandynge the dyscent. 3c. for this that they clayme by one selfe title & in the same maner it shall be if there be many dyscentes from one yssue of the yonger son. 3c. But in suche case if y^e father were seled of certayne lādes in fee

Ca. vi.

* Thys case is iudged. 4. of. E. 4. in the xv. lese.

Ca. vi.

in fee / and hath yssue two sonnes and
dieth / and the elder sonne entreteth and
is seased. &c. And after the yonger bro-
ther dysseaseth him by whiche dyssey-
syn he is seased of fee / and hath yssue /
and of suche estate dyeth seased / than
the elder brother may nat entre / but is
put to his wyrt of entre vpon dyssey-
syn for to recouer the lande. And the cause
is for this that the yonger brother co-
meth to the tenementes by a wronge
dyssey-
syn made vnto his elder brother
And for that wrong the lawe may nat
entende y^t he clayme as heyre to hys
father no more than a straunge persō /
that had dysseased the elder brother /
that neuer had any tyt^e. &c. * And so
may ye se the dyuersyte where the yon-
ger brother entreteth after the deathe of
hys father / before any entre made by
the elder brother in suche case. &c. and
where the elder brother entreteth after
the deth of hys father / and is dysseased
by the yonger brother. &c. In the same
maner if a man seased of certayne lan-
de in fee hath yssue. ii. doughters / and
dyeth / and the elder doughter entreteth
in the

in the lande clayminge al the lande to
her / & therof onely taketh the proffytes
and hath yssue & dyeth seled by which
her yssue entreth / whiche yssue hath
yssue and dyeth seled / and the seconde
yssue entreth. &c. (Et sic ultra) yet the
yonger daughter / and her yssue as to
the halfe may entre vppon euery yssue
of the elder daughter / nat withstan-
dyng suche discent / for this that they
clayme by one selfe tittle. &c. But in
suche case yf both. ii. sisters come into
the lande to entre after y^e deith of theyr
father and therof were seled / & after
the elder sister therof dyed the yon-
ger sister of that / y^e to her belongethe
and therof is seled in fee / and hath
yssue / and of suche estate dyeth seled
by whiche the tenementes descende
to the yssue of the elder sister / than the
yonger sister nor her heyres may nat
entre. &c. (Causa qua supra)

¶ Also yf a man seled of certayne lāde
hath yssue two sonnes / and the elder
brother is bastarde / and the yonger
brother mulper / and the father dyeth
and the bastarde entreth and claimeth

as

Ca. vi.

as heyre vnto hys father & occupyethe
the lande all hys lyfe without any en-
tre made vpon him by the mulier/ and
the bastarde hathe yssue/ and dieth of
suche estate sealed in fee/ and the lande
descendeth to hys yssue and this yssue
entreteth. &c. in thys case the mulier is
without remedy/ for he may nat entre
nor he shall haue no accyon for to re-
couer the lande/ for thys that there is
an auncient lawe in suche case vsed /
but it hathe ben an oppynyon of some
men that shall be vnderstande where
the father hathe a sonne a bastarde by
a woman / and after he weddythe the
same woman/ and after the spousayle
he hathe yssue by the same woman a
sonne or a doughter mulier / and the
father dyeth. &c. ¶ If suche a bastarde
entre. &c. and hath yssue and dyeth sea-
led. &c. than shall the yssue of suche a
bastarde haue the lande clerely to him
as it is aforesayde. &c. And nat any o-
ther bastarde borne of y^e mother that
was nat espoused to hys father / and
thys is a good & resonable oppynyon.
For suche a bastarde borne before the
espousels

esponsels solempnyshd betwene his fa-
ther & hys mother/by the lawe of holy
churche is mulier/ though that by the
lawe of y^e lande he is a bastarde bozne
& so he hath colour of entre as heye
to hys father / for this y^e he is by one
lawe mulier/that is to say by the lawe
of holy church. But otherwyse it is of
a bastarde & hath no maner of colour
to entre as heye/ in so muche that he
may nat in no lawe be sayd mulier. &
for suche a bastarde is sayd (Quasi nul-
lus filius) But in suche case aforesaide
wher the bastard cutteth after the deith
of his father/ & the mulier putteth him
out/ & after the bastarde dyscasseth the
mulier & hath yssue & dyeth leasid/ and
the issue entreth/ than the mulier may
haue a wyte of entre vpon disseyn a-
gainst the issue of y^e bastard & recouer
the lande. &c. And so may ye se the di-
uersite wher suche a bastarde continu-
eth hys possession all his lyfe without
any interrupcion/ and where the muli-
er entreth / and interruppeth the pos-
session of suche a bastarde.

¶ Also if a chyldre withi age haue title

and

and

and

Ca. vi.

and cause to entre in to any landes/oz
tenementes vpon an other that is sea
led in fe/ oz in fe ralle of the same land;
and tenementes; if such a man that is
so sealed die of such estate so sealed and
the tenementes descende to his issue du
rynge the tyme that the childe is with
in age/ suche descende shall nat toll the
entre of the childe but that he may en
tre vpon the issue that is in by descen
t. &c. for this y^t no laches shalbe adruge
in a childe within age in suche case. &c.
¶ Also if the husbāde & his wyfe as in
ryght of the wyfe haue title & ryght to
entre in the tenementes that an other
hath in fe oz in fee taylor/ and such a tes
taunt dieth sealed &c. In suche case the
entre of the husbāde is taken awaye
vpon the heyre that is by dyscent. But
if the husband dye/ than the wyfe may
well entre vpon the issue by dyscent/
for thys that the laches of the husbāde
shal nat toznc to the wyfe & to her heire
in pryncypce/ nor in damage / in suche
case/ but that the wyfe and her heyres
may well entre / where suche dyscent
is durynge the consuetude. &c.

Also

Also if a man þ is nat of holt munde
 that is to say in latyn (*Qui non est cō-* Ca. vi.
pos mentis) hath cause to entre in any
 such tencementes / yf such dyscent (vi s)
 be had in hys life during the tyme that
 he was out of his mynde / and after by
 his heyres may well entre vpon him y^e
 is by dyscent. And in thys may ye se a
 case that y^e heyre may entre / & yet hys
 auncestre that had the same tyle may
 nat entre / for he that was oute of hys
 mynde at the tyme of such dyscent if he
 wylle entre after such a dyscent / if accorde
 vpon this be sued agaynst him / he hath
 nothyng for hym to plecte or to helpe
 him but to say y^e he was oute of mynde
 at the tyme of suche dyscent. &c. and he
 shal nat be releued to say this for this
 that no man of ful age shal be receiued
 in any plect by the lawe to dysalte / or
 dysstable hys owne personne. But the
 heyre maye well dysstable the personne
 of hys auncestre / for aduantage of
 the heyre in suche case / for thys that
 no laches may be aduaged by the law
 in hym that hath noo dyscreffyon in
 suche case. * And yf suche a man oute
 of hys

Ca. vi.

of hys mynd make a scoffement. &c. he may nat entre / ne haue a wyrt called Dum non fuit compos mentis) &c. cau (a qua supra) But after hys death hys heyre may well entre or haue the same wyrt (Dum non fuit compos mentis) at hys electyon. &c.



II. xii.

E. iii.

¶ Also pf I be dysseased by a chyld within age that alyeneth to an other in fee / and the alyne dyeth seased / and the tencmentes descende to hys heyre & the chyld beinge within age / myue entre is taken away / But if the chyld within age entre vpon the heyre that is in by dyscende / as he well maye for thys that the dyscende was durynge hys nonage / than I maye well entre vpon the dissealy / for thys that by his entre he hath defeted and adnulled the dyscende. And in the same maner it is where I am seased and the dyssealour maketh a scoffemente in fee vpon condycyon. &c. and the scoffe dyeth of suche estate seased. &c. I may nat entre vpon the heyre of the scoffe. But pf the condycyon be broke so that by suche cause the seoffoure entreteth vpon the heyre now



II. xii.

E. iii.







nowe may I well entre / for thys that Ca. vi.
 whan the scoffoure oz his / eyes entree
 for the condypon broken the dyscences
 is bitterly defeted. :  : * : * :  :

¶ Also if I be dysseased / and the dys-
 seacoure hath yssue / and entreteth in to
 relyggon / by force of whiche the lan-
 des descendeth to hys yssue / in thys
 case I may well entre vpon he yssue /
 and yet there was a dyscense. But
 for thys that suche dyscense cometh
 to the yssue by the fathers deade / that
 is to saye / for thys that he entered in
 to relyggon. &c. and the dyscense com-
 meth to hym by the dede of god / that
 is to saye / by deathe. &c. myne entre
 is congeable / and lawefull / for yf I
 attayne assysee of nouell dysseasyn a-
 gaynst my dysseacoure / though that
 he after entreteth in to relyggon / thys
 shall nat abate my wytt. But my
 wytt thys nat withstandinge shall a-
 byde in his force and strength and my
 recouere agaynst hym shall be good /
 by the same reason the dyscense that
 came to hys yssue by hys owne deade
 maye nat put me fro myne entre. &c.

La. bi.

TAlso yf I lete vnto a man certayne
landes for terme of .xx. yere/ and an o-
ther discafe hym/ and putteth out the
terme / and dyethe sealed / and the te-
nementes descende vppon hys heyre /
I maye nat entre/ and yet the lesse for
terme of yeres may wel entre/ for this
that by hys entre he putteth nat oute
the heyre that is in by dyscende fro the
franke tenemente that vnto hym desc-
cended. But onely to haue tenemen-
tes for terme of yeres / the whyche is
no expulsiinge of the franke tenemente
of the heyre that is in by dyscende. : ✕
But other wyse it is where my tenaunt
for terme of lyfe is dyscafed. &c (Tan-
sa qua supra) &c. :  : ✕ : ✕ : ✕ : 

**A dyner
tyc.**

¶ Also it is sayde that yf a man seased
of tenementes in fee by occupacion in
tyme of warre and dyeth therof seased
in tyme of warre / and the tenementes
descende to hys heyre / suche dyscende
putteth out no man of hys entre. And
of this a man se a ple in a wyrt de apyl
Anno. vii. E. ii. : : : :
: : Also no dyenge seased where all
the tenementes cometh to an other by
successyon

Dyscentes . fo. cxxiii.
Successyon shall take a waie the entree **Ca. vii.**
of any person . &c. For of prelates / ab-
bottes / priours / deanes / or persones
of churches . &c. though that there
were twenty successions / this putteth
no man from his entree . &c. More shal
be sayde of dyscentes in the chapytre
of contynuall clayme . &c.

Contynuall clayme .
Capitulo . vii .

Continual claime is where a man
hath ryght and tyle to entree in
any landes or tenementes whereof an
other is seased in fee / or in fee taylor / yf
he that hath the tyle to entree make con-
tynuall clayme to the landes and tene-
mentes before the dieng seased of him
that holdeth the tenementes . Than
though such a tennaunte dye there of
seased / and the landes / and tene-
mentes descende to his heire / yet may he
that hath made such clayme / or his
heires entree in to the landes and te-
nementes dyscendede / bycause of the
contynuall clayme made . **Patwiche**
Q. iiii. standyng

Withstandynge suche dyscense. As in
 case a man be dysseised / & the dysseise
 makethe continuall clayme to the te-
 nementes in the lyfe of the dysseisor
 though the dysseisor dye sealed in fee
 & the lande descēdeth vnto hys heyres
 yet may the dysseise entre vpon y^e pos-
 sessyon of y^e heyre nat^l wthstanding such
 discent. ¶ In the same maner it is if te-
 naunt to terme of lyfe alien in fe/ he in
 the reuercyon / or he in the remayndre
 may entre vpon y^e aliene. And if suche
 aliyene sealed of suche estate without
 contynual clayme made to the teneme-
 tes before the dyeng sealed of the aliene
 and the tenementes bycause of the dy-
 eng sealed of the aliyene descēde vnto
 the heyre of the aliyene. Than he may
 nat be in the reuercyon / nor he in the
 remayndre entre. But if he in y^e reuer-
 cyon / or he in the remaindre that hath
 cause to entre vpon the aliyene made
 contynual clayme to the tenementes
 before the dyenge sealed of the aliyene
 than suche a man may entre after the
 deathe of the aliyene / as well as he
 myghte in hys lyfe. &c. ¶

Also

Continuall clayme. fo.crrb.

E Also yf landes be lette vnto a man
foz terme of hys lyfe y^e remayndre vn **Ca. vii.**
to an other foz terme of lyfe / the re-
mayndre to the thyrde in fee / yf the te-
nant to terme of lyfe alpen to an other
in fee / & he in the remayndre foz terme
of lyfe maketh continuall clayme vnto
the lande before the dyenge leased of
the alpenec / and after the alpene dieth
leased. &c. and after he in the remayn-
dre foz terme of lyfe / dyeth before any
entre made by hym. ¶ : * : *

In this case he in the remayndre in
fee / may entre bypon the heire of the
alpenec / bycause of continuall clayme
made by hym y^e made the remayndre
foz terme of lyfe / foz thys that suche
ryght that he hathe to entre shall goo
and remayne to him in the remayndre
after hym / in so muche that he in the
remayndre in fee may nat entre vpon
the alpenec in fee / but ynge the lyfe of
him in the remayndre foz terme of lyfe
and bycause he myght nat make con-
tinuall clayme / but whan he had title
to entre. But it is to se to the my child
howe & in what maner such continuall

Q. v.

clayme

Ca. vii. clayme shalbe made/and to lerne thys
Thre thynges therbe to be vnderstode

¶: x: *: ¶

In
what
wyle
clayme
ought
to be
made.

The fyrst thyng is yf a man haue
cause to entre in any landes or teneme
tes in dyuers townes within one shire
yf he entre in any parcell of the landes
or tenementes that be in one towne in
the name of the landes or tenementes
that bene in one towne to whyche he
hath ryght to entre wth in al y^e townes
in the same shire/ by such etre he hath
as good possessyon and seasyon of suche
landes or tenementes wherof he hath
tytle to entre as yf he had entred in to
euery parcell/ and thys semeth greate
reason/ for yf a man wyl enfeoffe an o
ther withoute dede of certayne landes
or tenementes y^t he hath in many tow
nes within one shire/ & he wyl deliuer
seasyon to the scoffe of parcell of the te
nementes wth in one towne in the name
of all the landes and tenementes that
he hath in the same towne / and in all
the other townes. &c. all the saide tene
mentes. &c. shall passe by force of the
sayde lyuete of seasyon to hym to whome
suche

Conspynall clayme. fo. cxvii.

such feoffement in such maner is made
And yet he to whome such lyuere of se
syn is made hath no ryght to all the
landes & tenementes in all the towne
but bycause of the lyuere of seisin made
of parcell of the landes or tenementes
in one towne (A multo forciori) It se-
myth good reason / that whan a man
hath tittle to entre in to landes or tene-
mentes in dyuers towne within one
shyre before any entre by hym made /
that by the entre of hym made in ycell
of the tenementes in one towne in the
name of al the landes and tenementes
to the whiche he hath tittle to entre is
in the same shyre / thys is a seisin of al
in hym, & by suche entre he hath posses-
sion and seisin in dede / as if he had en-
tered in to every parcell &c.

Ca. vii.

The seconde is to vnderstande that
yf a man haue tittle to entre in to any
landes or tenementes / yf he dare nat
entre in the same landes or tenementes
nor in any parcell therof for doubte of
betyng / or for doubte of maymyng /
or for doubte of bothe yf he go and ap-
proche as nyghe the tenementes as
he

Ca. vii. he dare for suche doute and clayme by wordes the tenementes to be hys incōtinent by suche clayme/ he hath a possession and seaspn in the tenementes as well as yf he had entred in deade / though he had neuer possession or seaspn of the same landes or tenementes before the sayde clayme. And that the lawe is such/ it is wel proued by a ple of an assise in the boke of assyse (Anno xxxviii. Edwardi. iii.) The tenure of whiche ensueth in thys forme.

In the countye of Dorset before y^e same Justices it was founden by verdyte of assyse that the playntife which had ryght by dyscente of herytage to haue the tenementes put in playnte at the tyme of the death of hys auncestre whiche was dwellynge in the towne where the tenementes were / and by worde claymed the tenementes amonge hys neyghbours/ but for doute of deth he durste nat approche vnto the tenementes/ but bryngeth assise/ and vpon the matcer founde / it was awarded that he shulde recouer. : **I** : *

The thirde thinge is to vnderstāde
-withyn

Continuall clayme. Fo. cxxvii.
within what tyme the clayme that is
sayde continual clayme shal serue and La. vii.
helpe hym that maketh the clayme &
hys heyre. And as to this it is to wye
that he that hath tittle to entre whan
he wyll make hys clayme/ & yf he dare
approche vnto the lande. Than it be-
houeth hym to go vnto the land / or to
parcell of it and make his clayme/ and
if he dare nat approche vnto the lande
for drede of betyng/maime/ or deth/
than it behoueth hym to go and to ap-
proche as nyghe as he dare towarde
the lande or parcell thereof & make his
clayme. And yf hys aduersary that oc-
cupieth the lande dye sealed in fe or in
fe taylor within a yere and a day after
suche clayme made/ by which the tene-
mentes descende vnto his son as heire
vnto hym/ yet maye he that made the
clayme entre vppon the possession of
the heyre. But in this case after a yere
and the daye that suche clayme was
made if none other clayme be made yf
the father than dye sealed/ the morow
after the yere and the day / or at an o-
ther day after. &c. tha may nat be that
made

Ca. vii.

made the clayme entre. * And therefore
foze yf he that made the clayme wyl
be sure alway that hys entre shall nat
be taken awaye by suche dyscete / it
behouethe hym that within the yere
and the day after the fyrste clayme to
make an other clayme in the forme a-
foresayde. And within the yere and / the
day after the seconde clayme / to make
the thyrde clayme in the same maner &
within the yere and the daye after the
thyrde clayme to make an other clayme
& so forth / that is to say / to make an o-
ther clayme within every yere and day
next after every clayme made during
the life of hys aduersary / & thā at what
tyme y^e hys aduersary dye / hys entre
shal nat be take away by no suche dis-
cete. And such clayme made in suche
maner is moſte comonly take & called
cōtinual clayme of hym that made the
clayme. But yet in case aforesaid where
his aduersary dieth wth him & yere & the
day next after the fyrst clayme / thys is
in the lawe a continuall clayme in so
much y^e hys aduersary dyeth within
the

Continuall clayme. Jo. cxxviii.

the yere and the daye after the same clayme / for it is no nede for hym that **Ca. vii.** made the clayme / to make any other clayme / but at that tyme that he with in the same yere and the day. &c.

C Also yf hys aduersary be dysseased within the yere / and a daye after the clayme and the disseasoure dith there of sealed within the yere / and the day &c. This dyenge sealed shall nat hurte hym that made the clayme / but that he may entre. &c. For who so ever he be that dyethe sealed within the yere and the daye after suche clayme / that shall nat hurte hym / that made the clayme / but that he may entre / though there were many dyenges sealed / and many dyscentes within the yere: and the daye. &c. **¶**

C Also yf a man be dysseased / and the dysseasour dysesealed within the yere / and the daye next after the dysseasyn done / wherby the reuementes descende to hys heyr / in thys case the entre of the dysseasyn taken awaye / for the yere and the daye that shulde helpe the dysseasyn in suche case. &c. shall nat be taken

As. vii.

taken from the tyme of the tyle of
entre growe vnto hym/ but only from
the tyme of the clayme by hym made
in tyme aforesayde. And for that cause
it shall be good for suche a dysseasy for
to make bys clayme. &c. in as shorte
tyme as he may after the dysseasyn. &c.

¶ Also yf suche a dysseasoure occupye
the lāde by. xl. yeres w^out any claime
made by the dysseasy. &c. & the dysseasy
by lptell space before the deathe of the
disseasour make a clayme in the forme
aforesayde/ yf so it fortune that within
a yere and a day after suche clayme y^e
dysseasoure dye leased. &c. the entre of
the dysseasy is congeable/ and for this
it shalbe good for such a mā that made
no clayme that hath tyle to entre. &c.
when he hereth that his aduersary ly-
eth syke to make bys clayme. &c.

¶ Also as it is sayde in the cases put
before where a man hath tyle to entre
bycause of a dysseasyn. &c. The same
lawe is where a man hath ryght to
entre bycause of any other tyle. &c.

¶ Also in this sayd presidentes maye
yknowe my chyld. ii. thynges. One

Continuall clayme. Fo. ccc. x. **Carbide**
is where a man hath tittle to entre by
pou a tenement in taylor if he make any
such clayme to the lande. &c. Than is
the state of the taylor defected / for that
clayme is as an entre made by hym / &
is of the same effect in the lande as he
were by ou the same tenement / and
had entred in the same tenement as
is aforesayde. And tha when the tenant
in taylor immediately after such clayme
continually bys occupacion in the te-
nemente / thys is a dysseisin made of
the same tenement vnto hym / that
made the clayme. (Et sic p consequens)
The tenant than hath fee simple. &c.
¶ The seconde thyng is that as ofte
as he that hath right to custie maketh
such clayme / & this notwithstanding
his aduersary continually his occupac-
cion. &c. so ofte the aduersary doth he
wronge and dysseisin to hym p made
the clayme. And by thys case so often
may he that made the same clayme for
such wronge & dysseisin made vnto
him haue a wyte of trespass (ad iure
clausum sui fregit). &c. to recover hym
damages. &c. he may haue a wyte
outr.

It. i.

oppoite

Continuall clayme. fo. ccc.

¶ Also yf a mayster say vnto hys ser-
uaunt y^e he dare nat go vnto the lāde **Ca. vii.**
nor to any parcell of the lande / for to
make his clayme. &c. and dare nat ap-
proche more nygh vnto the sayde lāde
saue to suche a place called Dale / and



commaundeth hys seruaunte to go to
the same place of Dale / & ther to make
a clayme for hym. &c. yf the seruaunt so
do. &c. this semyth as good clayme for
his mayster as yf he had bene there in
his owne person, for this that the ser-
uaunt dyd all that his master durst do
& ought to do by the lawe in suche case

¶ Also yf a man be so lyke or so lame
that he may nat in no maner come to
the lāde nor to any parcell of the same
or yf ther be a recluse that may nat by
cause of hys order go out of his house
&c. if such a maner pson comaunde his
seruaunt to go & make clayme for hi. &c.
& the seruaunt dare nat go vnto y^e lāde
nor to any parcell therof for doubte of
betinge / mayme or dethe / and for that
cause such seruaunt cometh as nygh vnto
to the lande as he dare for such dyete &
maketh such clayme. &c. for his master

Ca. vii.

It semyth that suche clayme for hye
mayster is good & stronge in the lawe
for els hye mayster shuld be in to gette
nylehete/ for it may well be that suche
a yson that is syke/ or lame/ or recluse
can nat finde any seruaunt that dare go
vnto the lade nor to any parcell of it to
make y^e clayme for him. &c. But if the
mayster of suche a seruaunt be in good
helth & may & dare well go to the tene-
mentes or to parcell of it to make hye
clayme for hym. &c. if suche a mayster
comand his seruaunte to go to some
parcell of the lande & make clayme for
hym. &c. And whā the seruaunt is in go-
nge to do the comaundermentes of hye
mayster he heareth by the waye suche
thynges that he dare nat go to any par-
cell of y^e lande for to make any clayme
for his mayster / & for y^e cause he goth
as nygh vnto the lande as he dare for
doubte of deathe/ and there he maketh
clayme for his master & in the name of
hye mayster. &c. It semyth that the
doubte in the lawe in suche case shalbe
if such clayme auapleth to his master
or nat for this that y^e seruaunt did nat

Dyscences. fo. cxvii.

all thys that hys mayster at the tyme
of commaundement durst haue done.

Also some haue sayde that where a
man is in prysoun & is dyscised & the dis-
sealour dieth seled during the tyme that
the dyssealour is in prysoun by whiche re-
nementes dyscende to the heire of the
dyssealour/ they haue sayde that this
shall nat hurte the dyssealour that is in
prysoun but that he may well entre/ nat
withstandynge suche dyscense for this
that he may nat make continual claime
whan he was in prysoun. And also yf
suche a one that is in prysoun be oute-
lawed in an accyon of dette or trespass
or in appele of robbery. &c. he shall reuer
suche outlawry by wyrt of errour. &c.
bycause he was in prysoun at the tyme
of outlawry agaynst hym pronouced.
Also if a recovery be had by dyscense
agaynst such a one that is in prysoun/
he shall abyde the iugement by a writ
of errour for thys that he was in prys-
oun at the tyme of suche default made
&c. And bycause that suche matters of
recorde shall nat hurte them that be in
prysoun but that it shall be reuersed. &c.

R.iii.

(A multo)

Ca. vii.

Con-
cernyng
thys





matter
sche the
opiniōs
of the
iustices.





p. vi.

b. vi.

Ca. vii.

Ytelton . Lib. 3 .

(A multo forciori) it seemeth that a man
ter in dede that is to say / such discent
had whan he was in pryson shall nat
hurte hym. &c. specially for this that he
may nat go out of pryson to make con
tynuall clayme. &c. :  :  :  :  :

¶ And in the same maner it seemeth
to the wher a man is out of the realme
in the kynges seruyce / for busyness of
the realme / and if a man be dysseased
whan he is in the seruyce of the kyng
that such discent shal nat hurte y^e dys
seasy / but for this that he myght nat
make continuall clayme. &c. it seemeth
unto them y^e whan he cometh againe
in to Englande he may enter agayne
vpon the heyre of the dysseasoure. &c.
For suche a man shall reuerse an oute
lawry that is pronounced agaynst hym
durynge the tyme that he is in seruyce
&c. (Ergo a multo forciori) he shall
haue ayde by the lawe in the othere
case. &c. :  :  :  :  :

¶ Also other haue sayde that if a man
be out of the realme though he be nat
in the kynges seruyce / yf suche a man
beynge out of the realme be dysseased
of

Contynuall clayme. fo. cxxxi.
of landes or tenementes within þe realme
of the disseasour dye sealed. &c. the dys- Ca. vii.
seasy being out of the realme it semyd
vnto them that whan the dysseasy co-
meth in to the realme that he may wel
entre vpon y^e heyre of the disseasour. &c.
this semith vnto them for two causes.
¶ One is that one that is oute of the
realme may nat haue knowlege of the
dysseasy made vnto hym by vndersta-
nding of the lawe / no more than that a
thyng done out of the realme may be
tryed within the same realme by the
othe of .xii. men. &c. & to compell suche a
man to make continual clayme whiche
by the vnderstanding of the lawe can
haue no knowlege or cognysaunce of
suche disseasyn made or done / this shal
be inconuenient / namely whan such a
dysseasy is done vnto hym whan he
was out of the realme / & also y^e dyeng
sealed was done / whan he was out of
the realme. For in suche case he ne-
maye nat by possybyltye after the co-
mon presumpcion make no contynu-
all clayme / but otherwys it shalbe yf
the dysseasy were within the realme at

Ca. vii.

A diuer
syte.

111333 . 07 **Wylton. lib. 3.**
the tyme of the dysseyn or at the tyme
of the dysenge sealed of the dysseynours
et. An other matter they alledge for a
proue that whan the statute of kynge
Edward the thyrde the. xxxiii. yere of
his reigne by which estate non claime
is oute. et. the lawe was suche that yf
a fine were leuyed of certayne lades or
tenementes / if any that was a stran-
ger to the fyne had ryght to haue and
to recouer the same landes or teneme-
tes / yf he came nat & made hys claime
thereof within a yere and a daye nexte
after the fyne leuyed / he shalbe barred
for euer (*Nulla dicebatur finis quod fi-
nem litibus imponebat*) And that the
lawe was suche it is proued by the sta-
tute of westmynstre the seconde (*De co-
nis conditionalibus*) where it speketh
yf the fyne be leuyed of tenites gyven
in the taylor. et. (*Quod fines ipso iure
sit nullus nec haboant heredes aut illi
quos spectat reueretio licet plene etatis
sint in Anglia extra personam necesse
apponere clauum suum*) So it is pro-
ued that yf a stranger p^r hath ryght
vnto the tenementes / yf he were oute
of the

Continuall clayme. Fo. cxxiii.
of the realme at the tyme of the tithes le-
ued. &c. that haue no damage though Ca. vii.
that suche tyme was matter of record
by greter reason it cometh vnto them
that a dysseisin and a dysseine that is
matter and dede that war so greue him
that was dysseised whā he was out of
the realme at the tyme of the dysseisin
and also at the tyme that the dysseisin
dysseised. &c. but that he may witen
the natwytstandynge to the dysseine.
¶ Also enquire yf a man be dysseised
and he arraigne assise against p^r dis-
seine & the recognytours of the assise
challenge for the playntife / and the
iurors of the assise wyl be aduysed of
theyr iugmentes vntill the iurors as-
sise. &c. & in the meane season the dys-
seisin dysseised. &c. yf the sayde
sute of the assise shall be taken in lawe
for the sayde dysseise a continuall clay-
me / in so muche that no default was
vnto hym. &c. ¶

¶ Also enquire if an abbot of a mona-
stery dye / and during the tyme of vacan-
cyon a man wrongfully entreceth in cer-
teyne parcells of lande of p^r monastery

R. v.

clay-

Ca. vii.

claymyng the lande vnto hym & bys
 heyres and of that estate dieth leased &
 the lande descenderth vnto bys heyres &
 after that an abbot is chose and made
 abbot of the same monastery a questiō
 is if the abbot may entre vpon y^e heire
 or nat. And it semith to some y^e the ab
 bot may wel entre in this case for this
 that the couente in tyme of vacacyon
 was no person able to make continual
 claime for no more than they be perso
 nable to sue an accōd / no more be they
 psonable to make continual clayme for
 the couent is but as a dead body with
 oute heede / for in tyme of vacacyon a
 graunte made vnto theym is voyde /
 and in thys case the abbote maye nat
 haue a wytt of entre vppon dysseisin
 agaynst the heyre / for thys that he
 was neuer dysseised. And yf the ab
 bot maye nat entre in thys case / than
 he shall put vnto bys wytte of ryght
 the whyche shall be to harde for the
 house by whiche semyth to them that
 the abbot maye well entre. &c. (Que
 re de dubus legem bene discere si vis
 quere dat sapere que sunt legitima

bere

Contynual clayme. No. cxxiii.
here. : : : : :
Relesles. Cap. viii.

Ca. viii

: : : : :

Relesles be in diuers maners that **R**e-
is to say relese of ryght & a man lesles of
hath in landes oz tenementes & relese al right
of accyons reals and personels/and of
other thynges. Relesse of al the ryght
that a man hath in landes oz teueme-
tes. &c. is comonly made in such forme
oz to suche effecte. (Pouerint vniuersi
per presentes me. A de. B. remisisse re
laxasse et omnino de me et hered meis
quic clamasse. E de. D. totum ius ti
tulum et clameum que hui habeo vel
quouismodo in futu habere potero de
it in vno mes. cum partinen in. f. &c.
And it is to vnderstande that this wor
des (remisisse et quic clamasse) be of
suche effecte as these wordes relaxasse
&c. & also these wordes which be comō
ly put in such odes of relestes. &c. that
is to vnderstande (Que quouismodo in
futurum habere potero) be as wordes
hoyde in the lawe/for no right passeth
by a relese but the ryght & the lessour
bathe at the tyme of hys relese made
for if

Ca. viii

121

20

30

ground.

for yf it be father and sonne, & the fa-
ther be dysseased / & the son lyving his
father releaseth by hys dede to the dys-
seasour all the ryght that he hathe / or
may haue in the same tenementes with-
out clause of warrantise. &c. & after the
father dyeth the son may lawfully en-
tre vpon the possessyon of the dissea-
sour for thys that he had no ryghte in
the lande lyvinge bys father / but the
ryght descended vnto hym by dyscent
after the release made by the death of
hys father. Also in a release of all the
ryghte that a man hathe in certayne
landes it behoueth vnto him to whome
the relese is made in suche case that he
haue a free holde in the landes in dede
or in the lawe at the tyme of the relese
made for in euery where he to whome
the relese is made hathe a free holde
in dede or in lawe / at the tyme of the
releas made. &c. the releas is good
franke tenement in lawe / as yf a man
haue dysseased an other and theroof dy-
eth seled by the whiche the tenementes
discende vnto hys sone / howebe it that
his sone entre nat in the tenementes

yet

yet he hath a franke tenement in the
lawe to him upon him and therfor the
releafe made is good ynoughe. And yf
he take a wyfe so beyng sealed in the
lawe howebeit that he neuer entre in
deede and dieth his wyfe shal haue ther
of her dower. Also in such case of releafe
of al right/ howbeit that he to whome
the releafe is made ne hath any thing
in the franke tenement neither in deede
nor in lawe/ yet the releafe is good
ynoughe/ as yf the disseasour haue let
lande that he had be disseasyn to an o-
ther for terme of hys lyfe/ sauynge the
reuercyon to hym if the disseasyn or his
heyrer releafe vnto the dysseasour all
the ryght. &c. that releafe is good/ for
this / that he to whome the releafe is
made had in hym a reuercyon at the
tyme of the releafe made. In the same
manner if a lease be made to a man/ for
terme of lyfe the remayndre vnto an o-
ther for tyme of life the remayndre vnto
the thyrde in the taylor/ the remayndre
vnto the fourthe in fee / yf a straunger
that hath the ryght vnto the lande
releafe al his ryght vnto any of them
the

Ca. viii

the remayndre/ suche release is good/ for thys that euery of them hath a remayndre bestyd in hym selfe/ yet if the ternaunte for terme of lyfe be dysseased & after y^e hath right (p^r possessyō being in the dysseasoure) release vnto one of them to whō y^e remayndre was made all hys ryght. &c. that release is voyde for that/ that he ne had in hym no remayndre in dede but al only a right of a remayndre/ at the time of the release made (Et nota) that euery relese made to hym that hath a reuertyon or a remayndre in dede shal serue & helpe thē that haue the franke tenement as wel as them to whōe the relese is made yf the ternaunt haue y^e relese in hys hāde &c. In the same maner a release made to a ternaunt for terme of lyfe or to a ternaunt in the tayle shal enure vnto thē in the reuertio or to thē in y^e remayndre as well as to the ternaunt of franke tenement/ and shal haue a greata aduātag of that/ if that they may shew it/ also yf there be Lorde and ternaunte and the ternaunte is dysseased/ and the dysseasy releaseth vnto the dysseasour

all the

Lord

all the ryght that he hath in the for-
noy or in the lande the relese is good
& the seynour is extincte. And of the
goodes of the dyscasy be taken any of
thē the dyscasy such (a Replegiare) a
gaynste the lord / he shall compell the
lord to anowe vpon hym / and yf he
wyl anowe vpon the dysseasour than
vpon the matter shewed / the anowr
shall be abbated / for the dyscasy is tes-
naut to them in ryght and in lawe.

Ca. viii

¶ Also yf lande be gyuen to a man in
the taylor reserpyng vnto the donour
and bys beyres a certayne rent / yf the
donor be dyscased / and after the do-
nour relese to the donee al the ryght
that he hath in the lande / and after
the donee entret in to the lande vpon
the dysseasour / in this case the rent is
gone / for thys that the dysseasour at the
tyme of the relese made was tenante
in ryght and in lawe vnto the donour
and the adowr of tyme force / ought
to be made vpon hym by the donour
for the rent be bynde. &c. ¶ Thus
yet nothyng of the ryght of the lande
that is to saye / of the ryght of the
te

Ca. viii

reueren thane passeth nat by suche
 release for this that the done to whose
 the release was made than he had no
 thynge in the lande but onely a ryght
 to the ryght of the lande. may nat
 passe by suche release to y^e done. In
 same maner it is yf a lease be made to
 one for terme of lyfe / reseruyng to
 the lessour and to his heires certayne
 rent yf the lesse be dyssesed and after
 the lessour releaseth to the lesse and to
 his heires al the ryght that he had in
 the lande / after yf lesse entreteth hold
 bur that in y^e case the rent is eximpte
 yf nothyng of the ryght passeth to
 (Ca. qu. supra) But if it be so that he
 and becom tenaunte / and the tenaunte
 maketh a feoffment in fee the which
 feoffe never became tenaunt in the lord
 etc. yf the lord release to the feoffour
 al his ryght. etc. yf release is in al word
 forth that the feoffour hath no ryght
 in the lande / and he is no tenaunte in
 ryght to the lord but only tenaunt as
 for the quowry to be made / and he shal
 neuer compell y^e lord to quowe by
 hym for the lord maye quowe by
 hym

Wyttylton.

Jo. c. xlvj.

hym the feoffee if he wyl it be / other-
wyse it is where the very tenaunt is
disseased as in case aforesayd / for if y
very tenaunt that is disseased holderh
of the lord by knyghtes seruyce / and
dyethe hys heires beinge within age
the lord shall have / & sease the warde
of the heire. And so he shall nat have
the warde of the feoffoure that made
the feoffement in fee / and so it is great
diuersyte bytwene these two cases.

Ca. viii.

Also yf a man enfeoffe another in
his lande upon trust and to the entent
that he shal performe hys last wyl and
the feoffoure occupieth the same at y
wyl of his feoffes, & after the feoffees
release by their dede vnto the feoffoure
at the right. &c. This hath ben in que-
styon if suche release be good or nat / &
some haue sayde that suche release is
good for this that no pzeupty was by
twene the feoffees / and they feoffoure
in so much that no lease was made af-
ter suche feoffement by the feoffes to
their feoffoure to holde at their wyl. &c
& some haue sayde the contrary & that
for two causes. One is that whā such

S. l.

feoffes

Ca. viii

feoffment is made vppon confydence
to performe the wyll of the feoffoure /
that it shalbe vnderstande by the lawe
that the feoffoure by and by ought to
occuppe the lande / at the wyll of hys
feoffees / & soo it is suche maner of pre-
uypie bytwene theym / as yf a man
make a feoffment to a nother person
& they incontynēt vpon the feoffemēt
wyl say and graunt that the feoffoure
shall occupy the lande at theyre wyll.
&c. A nother cause they allege that yf
suche lande be worth. xl. s. by yere &c.
Than suche a feoffour shall be sworne
in assyses / and in other enquestes in
plecs reals / & also in plecs personels
of what great somes so euer that the
playntiffes wyl declare. &c. and this
is by the comon law of the lāde. Ergo
this is for a great cause & the cause is
& the law will that such feoffours and
their heyres ought to occupp. &c. and
to take thercof the rent / and all the
profyts and all maner of issues / and
reuenues. &c. as though the tenemen-
tes were theyre owne withoute inter-
rupcyon of feoffees / notwithstanding
suche feoffementes. Ergo the same
lawe

Uptilton.

Jo.c. xlviii.

lawe gyueth a priuete byt wene suche
feoffours/and their feoffes vpon con-
fydence. &c. For whyche causes they
haue sayde that the release made by
suche feoffes vpon confidence to the
feoffoure / or to his heyres . &c. so
occupiynge the lande. &c. shall be good
ynoughe. &c. And this is the better
oppinyon/ as it semyth. Also releases
after y^e matter in dede somtyme haue
theyr effecte by force to enlarge the
estate of them / to whom the release
is made/as if I lette certeyne lād to a
man for tme of yeres/by force wherof
he is possessed/& I release vnto him al
the ryght that I haue in the lande
without more wordes sette or put in
the dede/& deliuer vnto hym the dede
Than he hath estate but for terme of
his lyfe/ & the cause is for this y^e whā
the reuercyō or the remayndre is in a
man/ the whiche wyl enlarge by his
release the estate of the ternaunt. &c. he
shal haue no great estate but in y^e ma-
ner & forme As if such a relefour were
seled in fe & wyl by hys dede make estate
to one in a certeine forme. &c. & deliuer

S.ii.

vuso

Ca. viii.

& it is
holden
i. 15. b.
7. jo. 2.
that the
feoffee
shall
haue an
accpon
of tref-
pas
agaynst
hym y^e
hath
the vse.

Ca. viii.

vnto hym seasyne by force of the same
 dede if in such dede of scoffemēt there
 be no worde of enheritaunce. &c. Than
 he hath estate but for terme of lyfe. &c
 & so it is in suche release made by him
 in the reuercyon/ or in the remayndre
 for if I let lande to a man for terme of
 lyfe/ and after I release vnto hym all
 my ryghte withoute more sayenge in
 the release/ his estate is nat enlarged.
 But if I release vnto hym and to his
 heyres of his body engendred than he
 hath the fee taylor / and yf I release vnto
 hym and to his heires/ than he hath the
 fee symple. So it behoueth i such case
 to specify in the dede what estate he to
 whom the release is made shall haue.
 &c. And somtyme release shal enure to
 set and put the ryght of hym that ma-
 keth the release to hym/ to whom the
 release is made. As a man is diseased
 and he releasyth vnto the diseasoure
 all the ryght y^e he hath. In this case
 the diseasoure hath his ryght so that
 where his estate before was wronge /
 now by y^e release it is lawfull & right
 but note wel y^e what a man is seased
 in fee

in fee symple of any landes: or tene-
mentes / & another wyl relese vnto hi
al y^e ryght y^e he hath in the same tene-
mentes / it nedeth nat to speake of y^e
heires of hym to whom the relese is
made / for this y^e he had fee symple at
the tyme of the relese made / for if y^e re-
lese were made to hym & to his heires
for one day or for one houre / this shal
be as strong vnto hym in the lawe / as
he had released to hi & to hys heires / for
whan his ryght was gone from hym
at one tyme by his relese without any
condicyon. &c. to him that had fee sim-
ple it is gone for euer. But where a mā
hath a reuercyon / or a remayndre in
fee symple at the tyme of y^e relese made
there if he wyl relese to þ tenaūte for
terme of yeres / or for tme of lyfe / or to
the tenaūit in the taylor / it behoueth to
determine the / estate that he to whō
y^e relese is made shall haue by force
of the same relese. For this that suche
relese goeth to enlarge the estate . &c.
of hym to whome the relese is made.
But otherwys it is where a mā hath

S.iii.

but

Ca. viii. but a ryght vnto the lande and hathe
 nothyng in the reuercyon nor in the
 remayndre in dede. For if suche a man
 release all his ryght to one that is te-
 nant of y^e franke tencment all his right
 is gone/though y^e no mencyō be made
 of the heyres of him to whome the re-
 lease is made. For if I let lande to a mā
 for terme of life if I after release vnto
 hym for to enlarge his estate/it beho-
 ueth that I release vnto hym & to his
 heyres of his body engēdred or to him
 and to his heyres males of hys body be
 gotten or by suche semblable estate. &
 or otherwise he hath no gretter estate
 than he had before. But if my ternaunt
 for tme of life let y^e same lande out to
 a nother for tme of the lyfe/of his lesse
 y^e remaindre vnto a nother in fe now
 if I relese vnto hym to whom my te-
 nant letted for tme of lyf I shalbe bar-
 red for euer/though y^e no mencyō be
 made of his heyres for this that at p
 time of y^e relese made I had no reuer-
 cyō but only a ryght to haue the reuer-
 cyō. For by such a lese w^t a remayndre
 ouer that my ternaunte made /in this
 case

Releses.

Jo. c. xlii.

case my reuercion is discontinued/ and
suche a release shall enure vnto him in
the remayndre to haue aduantage
of this / aswel as to the ternaunte for
terme of lyfe / for to that entent the te-
naunt for tme of life & he in the remain-
dre be as one ternaunt in the lawe / and
be as if one ternaunte were sole leased
in his demcane as of fee at the tyme
of suche release made vnto hym . Also
if a man be dysseased by . ii. if he relese
vnto one of theym / he shall holde his
felowe out of the land / & by such relese
shall haue sole possessyon / and estate
in the lande . But if one dysseasoure en-
feoffe . ii. in fee / & the dysseasy release
to one of them / this shall enure to both
the sayde feoffees . And the cause of y^e
dyuersyte byt wene these . ii. cases is re-
pugnant inoughe . ¶ Also if I be
dysseased & the disseasoure is dysseased
yf I release to the dysseasoure of my
dysseasoure . I shall neuer haue assyse
nor entre vpon his dysseasoure / for
thys that hys dysseasoure hath my
ryght by my release . &c . And so it se-
myth in this case that yf there were

Ca. viii.

S. iii.

twenty

Ca. viii.

Twenty dysseasours eche after other /
and I release to the laste dysseasour he
shall barre al the other of their acciō &
their tytles. And the cause is as it se-
meth/for this that in many cases whā
a man hath a lawfull tytle to entre
thoughe he entre nat. &c. he shal defete
al meane titles by his relese. &c. But
this is nat in every cause / as shall be
saide aftwarde. ¶ Also if a man be dis-
seased the whiche hath a sōne within
age & dyeth and being the sonne wⁱⁿ
age the dysseasoure dyethe sealed/ and
the lande descendith to his heyze/ and
a straunger abateth/ & after the sonne
of the dysseasy/ whan he commeth vn
to full age releaseth all his ryght. &c.
to the abatoure. In this case the
heyze of the dysseasoure shall haue no
assyse of mortedauncestre agaynst the
abatoure/ but he shall be barred of the
assise/for this that the abatoure hath
the ryght of the sonne of the dysseasy/
by his relese / and the entre of the
sone was lawfull. &c. for this that he
was within age at the tyme of the
discente. &c. but if a man be diseased &
the

the disseasour maketh a feoffement vpon
condicion that is to say to yelde vnto
hym certayne rent & for defaute of pai
ment a reentre. &c. yf the disseys relese
to the feoffe vpon condicyō / yet this al
tereth nat the estate of the feoffe vpon
condicyō as it was before. In y^e same
manner it is where a man is disseased
of certeyne lande / and the dysseasoure
graūteth a rent charge out of y^e same
lande though y^e after the disseys relea
seth vnto the disseasoure. &c. yet y^e rent
charge abyderh in his force. And the
cause is in these. ii. cases y^e a man shal
haue none aduātage by suche release
that shalbe againste his owne propro
acceptaūce / & against his owne graūt.
And though y^e some haue sayde that
where the entre of a man is cōgeable
vpon a tenaūt / if the relese to the same
tenaunt that thys auailleth vnto the te
naunt so as if he had entred vppon the
the tenaūt and after enfeoffed hym. &c.
this is nat true in euery case / for in the
first case of these. ii. cases if the dysseys
in fee entre vpon the feoffe vpon condi
cyon & after enfeoffeth hym / than the
cōdicyō is al put aside & void. And in

Ca. viii.

Seconde case if the dysseasy entre & ense
offe hym that graūted the rent charge
than is the rent charge auoyded. But
it is nat auoyded by any suche release
with an entre made. &c.. Also if a man
be disseased by a childe within age the
whiche alieneth in fee/ & the alienee dy
eth leased / & his heyre entreteth beinge
the dysseasour within age. Nowe it is
in the electiō of the disseasour to haue
a writ of Dum fuit infra etatem. Or a
writ of ryght agaynst the heyre of the
alienee/ & which writ so euer he taketh
of thē he ought to recouer by the lawe
And also he may entre in to the lande
wout any recouere/ & in this case p̄cne
re of the dysseasy is taken away/ but in
this case if the dysseasy relese his ryght
to the heyre of the alienee / & after the
dysseasour bryngeth a writ of ryght
agaynst the heyre of the alienee / & he
sopneth the mple vpd̄ the clere ryght.
&c. the graūde assise ought by the lawe
to fynde that the tenaunte hath more
clere ryght. &c. thā hath the dysseasour
for thȝ that the tenant hath the ryght
of dysseasy by his relese which is more
suncpēt

auncyente & more clere ryght thā the
ryght of the disseasour/for by such re-
lease all the ryght of the dysseasour pas-
seth vnto þ tenaūt/ & is i þ tenaūt And
to this some haue sayde þ in suche case
where a mā hath right to lādes or te-
nemētes but h; entre is nat lawfull/ if
he release vnto the tenaunt. &c. Than
suche release shall enure by way of ex-
tynquyshmēt. As vnto this it may be
sayd þ th; is trouth vnto hi that relea-
seth/for by his release he hath dysmis-
sed hi self clene of his ryght as to his
pson. But yet the right þ he had may
wel passe & go vnto þ tenaūt by his re-
lease/for it shulde be incōuenient that
suche an aūcyent right shulde be extic-
al vtterly. &c. for it is comōly said that
right may nat dye. But a relese þ goth
by the way of extynquyshmēt against
al psones/ is wher he to whō the rele-
se is made may nat haue this that vn-
to hi is relefed/ as if ther be lord & te-
naūt/ & the lord releaseth vnto the te-
naūt al the right þ he hath in the lord-
ship or al the right þ he hath i the lāde
&c. such a relese goth by way of extin-
guishmēt against al psones/for this y^e
the

A res-
lease in
brynge
by way
of extyn-
quysh-
ment.

Ca. viii.

the tenaunt may nat haue the same of hym selfe. In the same maner is a relese made to the tenaunte of the lāde of a rent charge or of a comō pasture for this that the tenaunte may nat haue that that vnto hym is relefed. &c. So suche releases go away by extinguishment againste all persones.

¶ Also to proue þ the graunde assyse ought to passe for the demaundaūt in the case aforesayde. I haue herde often in the lecture vpon the statute at westm the seconde that begynneth. In casu quando vir amiserit per defaultā tene-
mētum qđ fuit ius vxoris suc. &c. y^e is at the comō lawe befoze the statute/ if a lease were made to tenaunt for terme of life the remaundze out in fee and a straunger by a fained accion recouer a gainst the tenaūt for terme of lyfe by defaute/ & after the tenaūt dyeth/ he in the remayndze had no remedy befoze the statute for this y^e he had no posses-
sion of the lāde but if he i the remayn-
dre had entred vpon the tenaūt for tme of lyfe and dyseased hym / & after the tenaunt entrecth vpon hym / and after
the

Lyttylton.

Jo. c. lli.

the tennaunt for terme of lyfe leseth by
suche recouere had by defaute/and dy
eth / now he in the remayndre maye
wel haue a wryt of ryght against him
that recouered/ for this that the myse
shalbe ioynded only vpo the clere ryght
And yet in this case the seasyn of hym
in the remayndre was defeted by the
entre of the tennaunt for terme of lyfe.

But paraduētur some wyl argu & say
that he shall haue no wryt of ryght in
this case/for this that whā the mise is
ioynded i suche maner & is to saye if the
tenaunte haue more clere ryght to the
lande in the maner as it is holden thā
the demaundāt hath in the maner as
he demaundeth. And for this that the
seasyn of the demaundaunte was de
feted by the entre of the tennaunte for
terme of lyfe / than he hath no ryght
in the maner as he demaundeth. Unto
this it may be sayde that these wordes
(Modo & forma put. & c. i) many cases
be wordes of maner of pledynge & no
wordes of substaūce/for if a man bring
a wryt of entre (In casu prouiso) of a
lienacyō made by the tennaunt in dowre
to his

Ca. viii

* The
effect of
these
wordes
modo &
forma.

Ca. viii.

to his disinherytaunce and pledeth of
the alienaciō made in fee/ & the tenaunt
saith that he alpyened not in the maner
as the demaundaunt hath declared/ &
vpon this they be at issue/ & it is founde
by verdyt that the tenaunt alpyened in
the taylor/ or for terme of anothers lyfe
the demaundaunt shall recouer / and
yet the alienacion was nat in the ma-
ner as the demaundaunt hath declared.

¶ Also yf there be lorde and tenaunt/
and the tenaunt holdeth of the lorde by
fealte only / and the lorde dystayneth
the tenaunt for rent / and the tenaunt
bringeth a writ of trespass against his
lorde for his catayll so taken / and the
lorde pledeth that the tenaunt holdeth
of hym by fealte and certayne rente /
and for the rent behynde he came to
dystayne. &c. and demaundeth iudge-
ment of the writ brought against him
Quare vi et armis . &c . and the other
sayth that he holdeth nat of him in the
maner as he supposeth/ and vpon this
they be at an yssue/ and it is founde by
verdyt that he holdeth of hi by fealte
tantū: in this case y writ shal abate/ &
yet

yet he helde not of the lord in the maner as the lord had said / for the matter of the yssue is whether the tenant holdeth of hi or nat. For if he hold of him though the lord distrayne for other seruices þ he ought nat to haue / yet suche writ of trespas Quare vi & armis. &c. lieth nat agaynst þ lord but þal abate.

¶ Also in a writ of trespas of beryng or of goodes taken / yf the defendaunt plede nothyng culpable in the maner as the plaintife supposeth / & it is founde that the defendaunt is culpable in a nother towne or at another day than the plaintife supposeth / yet he þal recouere And i many mo other cases these wordes (y^t is to say in the maner as the demaundant or the playntife hath supposed) be no matter of substance of that yssue / for in a writ of right where the mysse is ioynd vpon the clere right / it is as muche to say and to suche effecte that is to wyte / whythere hath the more right the tenant or the demaundant to the thyng so demaunded. &c.

¶ Also yf a man be dysseased / and the dysseasour dieth seased. &c. and his son entreyth

Ca. viii.

Fynall
iudge-
ment in
a wyrt
of ryght

entrit in by discent / and the dysseas-
entrit vppon the heyre of the dysseas-
sour / the whiche entre is a dysseas. &c.
if the heyre bryngc assise / or a wyrt of
ryght agaynst the dysseas he shal be
barred. For this that whan y^e graunde
assise is sworne ther othe is vpon the
clere ryght & nat vpon the possession.
&c. for if the heyre of the dysseas had
brought assise of nouell dysseasyn or a
wyrt of entre in nature of assise & reco-
ueryd agaynst the dysseas & sunder ex-
ecucion / yet maye the dysseas haue a
wyrt of entre in the per agaynst hym
of the dysseasyn made vnto him by hys fa-
ther / or he may haue agaynst the heire
a wyrt of right. But if y^e heyre ought
to recouer agaynst the dysseas in the
case aforesayde by a wyrt of ryght / tha
all his ryght shal be clerely gone / for
this that a fynall iugement shulde be
gyuen agaynst hym which shulde be
agaynst reason where the dysseas hath
more clere right. &c. And knowe ye my
sone that in a wyrt of ryght after this
that the.iii. knyghtes be chosen in y^e
graunde assise / than there is no greter

Delay

delay than a w^{ryt} of Formedon after
thys that the partyes be at an yssue.
¶. and yf the myse be iorned vpon ba
taylor/ than there is lesse delay.

Ca. viii

¶ Also a realese of al the ryght. &c. in
some case is good made vnto him that
is supposed tenaunt in the lawe though
he hath no thyng in the teneementes
as in a p^{re}cipe quod reddat yf the te-
naunte alyen the lande hangyng the
w^{ryt}/ and after the demaundaunt re-
leaseth to hym all hys ryght/ that re-
lease is good for thys that he is suppo-
sed to be tenaunt by the sute of the de-
maundaunt/ & yet he hath nothyng in
lande at the tyme of the release made.

¶ In the same maner it is if (in p^{re}ci-
pe quod reddat) the tenaunte vouche
and the vouche entre in the garranty/
if after the demaundaunt release vnto
the vouch al his right. &c. this is good
enoughe/ for thys that the vouche af-
ter this p^{re} he hath entered in p^{re} garran-
ty is tenaunt in law to p^{re} demaundaunt.

¶ Also as to releffes of accyons reals
and accyons p^{er}sonals it is so that some
accyons be myrte in the realte/ and in

Ca. viii

the personallite/as if an accyon of wast
be sued agaynst the tenaunt for terme
of lyfe thys accyon is in the realte for
this that the place wasted shalbe reco-
uered/ and also it is in the personallite/
for thys that the treble damage shalbe
recovered for the wronge/ & waste done
by the tenaunt/ and for this in this ac-
tion a relese of accions reals is a good
ple in barre/ and so is a relese of accy-
ons personals . In the same maner it
is in assyse of nouell disseasyn/ for this
that it is mixte in the realte and in the
personallite. But if such assyse be array-
ned agaynst the dysseasour/ the tenaunt
of the dysseasoure may plede a relese
of accyons personals / for to barre the
assyse/ but nat a relese of accyons re-
als in assyse but the tenauntes. &c.

¶ : ¶ : ¶

¶ : * : ¶

¶ Also in such accyons that behoueth
to be sued agaynst the tenaunt of the
frauke tenement if the tenaunt
relese of accyons reals of the dis-
seasour made vnto hym before the
purchased/ & he pleader the it/

Releffes.

No. cribi.

good plee for the demaundaunt to say
that he that pleadeth that plee had no
thinge in the franketement in tyme
of the releafe made, for than he had no
cause to haue accyon reale againg hym

Ca. viii

Also in such case where a man may
entre in landes or tenementes / he may
haue of thys an accyon reall which is
giuen vnto hym by the lawe agaynst
the tenant. As in this case the deman-
daunt releafe to the tenaunt al maner
accyons reales / yet thys taketh nat a
way the entre of the demaundaunte /
but the demaundaunt may well entre
nat withstandynge suche releafe for
this that nothinge is releafed but the
accyon. &c. In the same maner it is of
thynges psonals. As if a man wronge
fully take my goodes yf I releafe vnto
to hym all accyons personales / yet I
may by the lawe take my goodes oute
of hys possessyon. :✠:✠:✠:✠:

Also if I haue cause to haue a wyse
of detinewe of my goodes agaynst an
other though that I releafe vnto him
all accyons personales / yet I maye
take my goodes out of his possessyon /

L.ii.

for

Carvili

Lib. 3.
for this the right of goodes is released to him only the accyon. &c. Also if a man be disseased/ and the dysseasour make a scoffement vnto dyuers persons into hys vse/ & the disseasour contrary taketh the profytes. &c. & the dysseasour releaseth vnto him all accyons reals/ & after he sueth against him a wryt of entre in nature of assyse because of the statute for thys that he taketh the profytes. Enquyre howe ye dysseasour shalbe holpen by the sayde release/ for yf he wyl pleade the release generally/ than the demaundaunt may say that he had nothyng in the frank tenemente / at the tyme of the release made/ & if he plede the release specially/ than it behoueth him to knowe a disseasyn/ & than may the demaundaunt entre in the lande. &c. by his comsaunce of the dysseasyn. &c. but peradventure by especial pledynge he may be barred of the accyon that he suethe. &c. though that the demaundaunt may entre. &c.

¶ Also if a man sue appcle of felony of the deathe of his auncestre against another

nother though the appellaunt relese
vnto the defendaunt al maner accions
reals / & personals / this shal nat helpe
the defendaunt / for thys that thys ap-
pele is nat an accyon real in so muche
that the appellaunte shal nat recouer
any reale / nor suche appele is no accy-
on personall. * In so muche that the
wrouge was vnto hys ancesster / and
nat vnto hym / but yf he relese to the
defendaunt al maner of accyons than
it shal be a good barre in the appele / &
so a man maye se that a relese of all
maner of accyons is better than relese
of all maner of accyons & personals. &c.
¶ Also in appele of robbery / yf the de-
fendaunt wyl pleade a relese of the ap-
pellaunte of all accyons personalles /
thys semyth no plee / for an accyon of
appele where y^e appellaunt shal haue
iugement of dethe. &c. it is more hygh
than an accyon personall / and it is nat
properly sayde an accyon personall /
and thefore yf the defendaunte wyl
haue a relese of the appellaunte to
barre hym of the appele / it behoueth
hym to haue a relese. ¶ * &c.

¶ And also of all

Ca. viii

of ail maner of accyons of appele/ of re
lese oz of all maner of accyons as it se-
mith. &c. But in appele of mayme a re
lese of all maner of accions psonals is
a good ple m bar/ for this y^e in such an
acciō he shal nat recouer but damages
¶ Also if a man be outlawed in an ac-
cyon personall by processe of the oꝝ p-
gynall and bynne a wyrt of errout/ yf
he at whose sute ye was outlawed wil
plede agaynst him a release of accions
personales thys semith no plec/ for by
the sayde accyon he shal recouer no-
thyng in the personalte/ but all only
to reuerse the outlawry/ but a release of
a wyrt of errout shalbe a good plc. &c.
¶ Also yf a mā recouer det oz damage
and be release to the defendaunte all
maner of accyōs/ yet he may lawfully
sue executyon by (Capias ad satisfaci-
end) oz by (elegit) oz by fieri facias) for
execucion by suche wyte may nat be
sayde an accyon/ but yf after a pce & a
dape the playntife wyl sue a (Scire fa-
cias) to haue executyon. &c. than it se-
myth a release of all accyons shalbe a
good plec in barre / but some haue
thought the contrary in so much that

Releffes. fo. cxlviii.

the writ of (Scire facias) is a writ of execution / and is to haue execution. But in so much y^e vpon the same writ the defendaut may plede dyuers matters after the iugement gyuen to put hym fro execution as outlawry & dyuers other. &c. therfore it may well be sayde accyon. &c. and I trowe that in a (Scire facias) out of a fyne a release of all maner of accyons is a good piec in barre / but wher a man hath recouered det or damage / and it is accorded by twene them that the playntiffe shalbe put out from accyon / than it behoueth that the playntiffe make a release to hym of all maner of accyons.

Also if a man release to an other all maner demaunders / thys is y^e most best release that he to whome the relese is made can haue & most shal entere to his aduauntage / for by suche a release of all maner of demaunders / all maner of accyons reals / & personals / & accyons of appelles be gone & extyncte / & all maner of executions be gone & extyncte. And if a man had tittle to entere in any landes or tenementes / by suche release

A release of all demaunders

¶ iii.

hys

La. bill

hys tytle is gone / and yf a man haue
rent seruyce / or rente charge / or com^d
of pasture. &c. by suche release of al ma
ner demaundes to the tennant of the
lande wherof the seruyce or the rent is
gopng out / or in what lande so euer y^e
comon be / the seruyce and rente / and
the comon is gone and extyncte. &c.

¶ Also yf a man release to an other al
maner quarels / or all contencies or
debates betwene them. Enquyre to
what matter and to what effecte such
wordes extende. :G: :N: * :D: :

¶ Also if a man be bounde by his dete
to an other in certayne somme of money
to pay at the feste of saynte Michell
than nerte folowynge. &c. yf the obly
ge before the sayde feste release vnto
the obligour all accyons he shalbe bar
red of y^e dutie for euer / yet he myght
haue none accyon at the tyme of the re
lease made. But yf a man let lande to
an other for terme of yeres to y^e l^e at
the feste of saynt Michell next ensuing
xl. s. and before the same feast he re
leaseth to the lessee all accyons / yet
after the same feste he shal haue an ac
cyon

Ca. viii.

In enquire to
what
purpose
an halfe
marke
shalbe
offered i
a wyrt
of ryght

or Johā to haue the tenementes as he
demaundeth and for nothyng to let to
saye the trouthe as god me helpe .xc.
without sayeng to theyr cōtemnyng / &
suche othe shall be made in attaynte
and in battayle & in wagynge of lawe
for those to euery thyng vnto an ende
But Johā barrey pleded of y^e dysseasyn
of one Kaufe his auncestre in time
of Kinge Henry / and Raynolde vpon
the myse ropned tenderyd halfe a mar
ke for the tyme .xc. & vpon thys / sayde
These iustices at the graunde assyse /
after this that they were charged vpon
the clere ryght. Good man Raynolde
gaue halfe a marke to the kyng to the
intent that ye fynde that the aūcestre
was nat seald in tyme that the de
maūdaunt hath pleded no forther vpon
the ryght / & for thys ye shall say to vs
whether þ aūcestre of Johā Kaufe by
name was seald in y^e tyme of kyng
H. as he hath pleded or nat / & if ye fy
nde þ he was nat seald in the tyme ye
shal enquire no more / & if ye fynd y^e he
was seald, thā enquire ferther of the
ryght & after the graunde assyse came
with

With theþ; berþre/ & layd that Hauke
was nat sealed in the tyme of kyng.
Wherby it was a warde that Kay
holde shoulde holde the tenementes &
gapulle hym demaunded to hym/ and
to hys heires quyte of Johan batrey
and his heires to the remenaunt/ and
Johan in the mercy. **G. R. X. D.**

Ca. vii.

Confirmacyon.

Ca. ix.

A dede of confirmacyon is moſte
comonly in ſuch forme or to ſuch
effecte (Rouerint vniuerſi. &c. me. A de
B. ratificaffe/ approbaffe et/ confir-
maſſe. C. de. D. ſtatum/ et poſſellum
quos habeo de et in meſuagio. &c. cunt
pertin in. R.) and in ſome caſe a dede
of confirmacyon is good and vailable
wherin the ſame cauſe a dede of releſe
is nat good nor vailable. As I let lãde
to a mā for terme of his lyf/ the which
letteth the ſame lande to an other for
xl. yeres/ by force of the which he is
poſſeſſed/ yf I by my dede confyrme
the ſtate vnto the tenaunte for terme
of yeres/ and the tenaunt for terme of
lyfe

Cap. ix.

Ca. xi.

Wherby durynge the terme of hys yerres
may nat entre into the lande durynge
the same terme / yet if I by my dede of
releafe haue released to the tenaunt for
terme of yerres in the life of the tenaunt
for terme of life the releafe shalbe voyde
for thys that than no pryncipe was be-
twene me and the tennaunte for terme
of yerres for a releafe is nat auaylable
to the tennaunte for terme of yerres but
where a pryncipe is betwene hym and
hym y^e releaseth. In the same maner
as if I be disseased & the disseasour ma-
keth a lease to an other for terme of
yerres Also if I be disseased I cōfirme
the state of the disseasour thā he hath
a good & ryghtfull estate in fee simple
though that in the dede of confirmacyon
upon no mencyon is made of hys heye-
res / for thys that he had fe simple at
the tyme of the confirmacyon / for in
suche case yf the dysseasour confirme the
state of the dysseasour to haue and to
holde to hym for tyme of hys lyf / yet yf
disseasour hath fe simple & is sealed in
his demeane as of fe for this y^e whan
his estate was cōfirmed he had fe sim-
ple

Confirmacion. Ho. cli.
ple & in such dede he may nat chaunge
his estate without entre vpon him. &c.
In the same maner is yf the estate be
confyrmed for terme of a daye / or for
tyme of an houre he hath a good estate
in fee symple (Or confirmare firmum
facere) Also if. ii. be dissealours and the
dyssealy releaseth to the one / he shall
holde his felowe out of the lāde / but yf
the dyssealy confirme the estate of the
one withoute more speche in the dede /
some say that he shall nat holde his fe
lowe out / but he shall hold ioyntly with
him for this that nothing was confir-
med but his estate y^f was ioynt / & for
this some haue sayde that if. ii. ioynte-
nautes be & y^f one cōfirmeth y^e estate
of the other that he hath but a ioynt e
state as he had before / but yf he haue
such wordes in the dede of cōfirmaciō
to haue & to holde to hym & to hys hey-
res al the teneūtes wherof mencyō is
made in the confirmaciō / that he hath
estate sole in y^e teneūtes / and therfor
it is a good & a sure thyng in every cō-
firmaciō to haue these wordes to haue
& to hold the teneūtes. &c. in fe or in fe

Ca. ix.

table

Ca. ix.

tale oꝝ foꝝ terme of lyfe / oꝝ foꝝ terme
 of yeres after as the cause / oꝝ the mat
 is / foꝝ to the entent of some pt a mā let
 lande to an other foꝝ terme of lyfe and
 after he confirmeth his estate by these
 wordes to haue and to holde his estate
 to hym and hys heyles / thys confir-
 macyon as concerninge his heyles is
 boyde / foꝝ his heyles canuat haue his
 estate which was but foꝝ terme of lyfe
 but pt he confirme hys estate by these
 wordes to haue the same lande to him
 and to hys heyles thys confirmacyon
 maketh fe symple in thys case to hym
 in the lande / foꝝ thys that they haue &
 holde. &c. goth to the lande & nat to ye
 estate that he hath. &c. Also pt I lette
 certayne lande to a woman sole / foꝝ
 terme of her lyfe the whiche taketh a
 housbande / and after I confirme the
 estate to the husbāde and to the wyfe
 foꝝ terme of theyꝝ. ii. lyues in this case
 the husbāde holdeth not ioyntly with
 the wyfe / but holdeth the ryght of his
 wyfe foꝝ terme of hys lyfe / but this cō
 firmacion shall enure to the husbāde
 by way of remayndꝛe foꝝ terme of his
 lyfe

Confirmacyon **fo. clii.**

lyfe yf he surpue his wyfe but if I let
lande to a womā sole for tme of yeres/
whiche taketh an husbāde/ and after
I confirme the state to the husbāde/
and the wyfe for terme of bothe theyz
liues in this case they haue ioynt estat
in the franke tenechte of the lande/ for
thys that the wyfe had no franke te-
nemente before. * Also yf a person of a
chyrche charge the glebe of his chyrch
by hys dede / and the patron/ and the
ordynary confirme the same graunte
and all that is compysed within the
same graunte/ than the same graunte
shall be in his strengthe after the pur-
pose of the same graunte / but in suche
case it behoueth that the patron haue
fe simple in the auouson/ for if he haue
estate in the auouson for terme of lyfe
or in taylor/ than the graunt shall be but
duryng hys lyfe/ and the lyfe of the
yson that graunted it. &c. Also yf a mā
let lande for terme of lyfe/ whiche te-
naūt for terme of lyfe chargeth y^e lādē
wth a rent in fe/ & he in the reuercyō con-
firmeth the same graunt thys charge
is good inoughe/ and effectuell. Also

Ca. lx.

yl

Ca. ix.

ordinar^y hath nothyng to medle nor
to do/ the patron of the chauntery and
the chapelayne of the same chauntery
may charge the chauntery with a rent
charge in ppetu^{ty}te . Also in some case
these verbes (dedi et concessi) haue the
same effecte in substantiue/ and shall en
ure to the entente / as thys verbe
(confirmauⁱ) as yf I be dysseased of a
ploughe lande and after I make such
a dede. &c (Sci^{ant} presentes). &c. quod
dedi) to the dyssefoure the sayd plough
lande. &c. and I deliuer all onely the
dede to hym without lyuere of seasyⁿ
of the lande/ that is a good confirma
tyon and as stronge in the lawe as yf
he had in y^e dede this verbe(confirma
ui). &c. Also if I let lande to a man for
terme of yeres / by force of which he is
possessed / and after I make to hym a
dede. &c (quod dedi vel concessi). &c. the
same lande to haue for terme of his life
and deliuer hym his dede/ than by and
by he hath estate in the lande for tme
of hys lyfe / and if I say in the dede to
haue to hym and to hys heires of hys
body engendred he hath estate in the
tyle

Confirmacyon. No. clxxxiii.
 taylor/and if I say in y^e dede. To haue
 and to holde to hym and to hys hey-
 res / he hath estate in fee symple / for
 this shall enure to hym by force of con-
 firmacion to enlarge his estate. Also if
 a man be dysseased & the dysseasour dy-
 eth seased & his heyre is in by discent /
 after the dysseasy and the heyre of the
 dysseasour make ioyntly a dede to an o-
 ther in fe/ & a liuere of seasin vpon this
 is made: as to the heyre of the dyssea-
 sour that enseaseth the dede/ the tene-
 mentes passe by the same dede by way
 of feoffement / & as to the dysseasy y^e cu-
 sealerth the same dede/ this shall nat en-
 ure but by way of confirmacion/ but if
 the dysseasy in this case brynge a writ
 of curie in the (per & cur) agaynst the
 alienec of the heyre of y^e dysseasour/ en-
 quyre howe he shall plede that dede as
 gaynst the demaundaunt by way of con-
 firmacyon. &c. And knowe ye this my


The
 chylde & it is one of the most honoura-
 ble / laudable / & profytable thyng in
 our lawe to haue the scyence of well
 pledyng in accyons reals & personals

U. l. and




La. ix.

Uptelton. Lib. 3.



and personales/ & for this I counsaile
the in especyall to set thy courage and
cure to lerne that. Also if there be lord
and tenaunt/ & the lord confirmeth the
estate that the tenaunt hath in the te-
nementes/ yet the seignoury holdy aby-
deth to the lord as it was before. In
the same maner it is yf a man haue a
rent charge out of a certayne lande/ &
he confirme the state that the tenaunt
hath in the lande/ yet abydeth to the
confirmer the rent charge. In the same
maner it is / yf a man haue comon of
pasture in the lande of an other / yf he
confirme the state of the tenaunt of
lande nothinge shal departe from him
of his comon/ but this notwithstanding
the comon abydeth to hym as it was
before. But if there be lord & tenaunt
whiche holdeth of his lord by seruyce
of fealte and. xx. s. of rent / if the lord
by his dede confirme the state of the te-
naunt to holde by. xii. d. i. s. or by an. cb.
in this case the tenaunt is dyscharged
of all other seruyces and shal yelde no-
thyng to the lord but that that is
comprised within the same confirma-
cyon

Confirmacyon. **¶** fo. clxxxiii.
cyon yet if the lord wyl by the dede of
confirmacyon that p^e ternaunt in this
case ought to yelde to hym an hawk
or a rose yerely at suche a fest. &c. this
reseruacyon is boyde / for this that he
reserueth to hym a newe thyng that
neuer was parcell of the seruyces be-
fore the confirmacyon / and so p^e lord
maye abbydge the seruyces by suche
confirmacyō / but he may nat reserue
to hym a newe seruyce. &c. :  : *

Ca. ix.

 : * : 
¶ Also if there be lord meane and te-
naunte / and the ternaunte is an abbot
that holdeth of the meane by certayne
seruyces yerely the whiche hathe no
cause to haue acquytance agaynste
his meane for to bring a wyrt of mene
&c. In this case if the meane confirme
the state that the abbotte hathe in the
lande / to haue and to holde the lande
vnto hym and to hys successours in  **The**
franke almozgne / or free almshouse. &c. vtilyte
in this case thys confirmacyō is good of ple-
aure than the abbotte boldethe of the dyng-
meane in franke almozgne / and the
cause is for this that no newe seruyce

Ca. ix.

is reserved / for al y^e scrupes especialy
specified be certuine / and nothynge is
reserved to the meane / but the abbote
shall holde of the lande / and that was
before the confirmacions: for he that
holdeth in franke almopne oughte to
do no bodely service / so that by suche
confirmacyon it appereth that the
meane shall reserve unto hym no newe
scrupce / but that the lande shall be hol-
den of hym as it was before / and in
this case the abbot shall haue a wryt of
meane yf he be dystrayned in hys de-
faute by force of the sayde confirmacy-
on / where percase he myght nat haue
suche a wryt before. &c. :  : 

I Also yf I be leased of a villayne as
of a villayne ingrosse / and an other ta-
keth hym oute of my possessyon clay-
myng hym to be his vyllayne / & after
I confirme unto hym thestate that he
hath in my villayne / this confirmacy-
on scmyth voyde / for this that none
may haue possessyon of a man as of a
vyllayne in grose / in so muche that he
to whome the confirmacyō was made
was nat leased of hym as of hys vyl-
layne

Confirmacyon. fo. clxxxv.

layne at the tyme of the conspyracy- **La. ix.**
on/suche confirmacyon is voyde/ but
in this case yf suche wordes were in þ
dede. Sciatis me dedisse & confirmasse
tali. &c. talem villanum meum/ this is
good/ but this shall enure by force and
way of graunt/ and nat by way of con
spyracyon. &c. Also sometyme theie
verbes (dedi et concessi) enure by way
of extynguyshment of the thynge gy- **Extyn-**
uen or graunted. As a ternaũt holdeth **guysh-**
of his lorde by certayne rent / and the **meuce.**
lorde by hys dede graunteth to the te-
naunte and to his heyres the rent. &c.
this shal enure to the ternaunt by way
of extynguyshment/ for by this graunt
the rent is extincte. In this same ma-
ner it is where one hath a rent charge
of certayne lande & he graunteth to y^e
ternaunt of the lande the rente charge/
& the cause is for this that it apperteth
by the wordes of the graunte that the
wyll of the donoure is that the ternaũt
shal haue the rent. &c. in so muche that
he may haue no rent oute of his owne
lande/ for this the dede shall be vnder-
stande and taken for the most aduun-
U. iii. **tage**

Ca. ix.





Ca. x.

fage and anaple of the tennaunte that
may be / and that is by way of certyn-
guyshmente. Also yf I lette lande to a
man for terme of yerres & after I con-
fyrme hys estate without mo wordes
put in y^c dede / he hath no greter estate
but for tme of yerres as he had before
but yf I release to hym my right that
I haue in the lande without mo wor-
des put in the dede / he hath estate of
seanke teneimt / & so mayst thou childe
vnderstande grete diuersytes bytwene
releses & confirmacyons. Also if I be
withyn age and lette lande to one for
terme of. xx. yerres and he grauntethe
the lande for terme of. x. yerres so that
graunt is but parcell of his terme. In
this case whan I am of full age yf I
release vnto the grauntee of my lesse.
ec. This release is voyde for this that
there is no pruyte bytwene hym and
me. But if I confirme his estate / than
this consermacyon is good / but if my
lessee graunt all his estate to an other
than my release made to the graunte
is good and effectuell. Also yf a man
graunt

Confirmacyon. Fo. clxxxvi.
graunt a rent charge out of his lande
to an other for terme of hys lyfe / and **Ca. ix.**
after I confyrm his estate in y^e saide
rente to haue & to holde to hym in fee
taylor or in fee simple / this confyрма-
cyon is voyde as to enlarginge of hys
estate / for this that he hath confirmed
had no reuercyon in the rente but if a
man leased in fee of rent seruyce / or of
rente charge / and he graunteth the **Extyn-**
rente to an other for terme of lyfe and **guyth-**
the tenaunte attourneth / and after he **mente.**
confirmeth the estate of the grauntee
in fee taylor or in fee simple / this con-
firmacyon is good as to enlarge hys
estate after the wordes of the dede of
confirmacyon / for this that he that
confyrmeth the estate at the tyme of y^e
confyrmacyon hadde the reuercyon of
the rente. &c. But in this case afore-
sayde where a man graunteth a rent
charge to an other for terme of lyfe /
yf he wyl that the graunte shall haue
estate in the taylor / or in fee / it be-
houeth hym that the dede of the
graunte of the rente charge for ter-

U.iii. me
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Ca. ix.

for terme of lyfe be surrendred or contel-
 led ! and than to make a newe dede
 of suche a rent charge to haue and to
 take to the grauntee in the tayle/ or in
 fee . (Ex paucis dictis plurima inten-
 dere potes.) :  :  :  : 

Attournement .




Cap. x.

Ca. x.

Attournement is if ther be lord
 and tennaunt and the lord wyl
 graunt by hys dede the seruyce of hys
 tennaunt to an other for terme of yeres
 or for terme of lyfe or in tayle or in fee/
 hym behoueth that the tennaunt attour-
 ne to the graunt in the lyfe of the grau-
 tour by force and vertue of the graunte
 or otherwyse the graunt is voyde/ and
 attournement is none other thinge in
 effecte but whan y^e tennaunt hath herde
 of the graunte made by his lord/ that
 thesame tennaunte by worde agree to
 the sayde graunt/ as to say to the grau-
 tee/ I agree me to the graunt made to
 you/ or I am wel content of the graunte
 made to you . &c. but the more comon
 attournement is to say/ sir I attourne
 to you by force of y^e same graunt or I
 become

Attournement. Ho. clxxxvii.
become your tenaunt. &c. or to deliuer
vnto the graunte. i. d. ob. or ferthyng
by way of attournement. &c. :

Ca. r.

¶ Also yf a man be leasid of a maner
wher the maner is parcell in demesne
and parcell in seruyce yf he wyl alen
suche maner to an other / it behoueth
that by force of the alienacyon all the
tenauntes that holde of the alenour
as of his maner. &c. attourne to the
alenor or otherwys the seruyces abyd
continually in the alenoure / excepte
tenauntes at wyl / for it nedeth nat y^e
tenauntes at wyl attourne vpon such
alienacyon. &c. for this that the same
landes & tenementes that they holde
at wyl do passe to the alenor by force
of suche alienacyon. :  :  : 

¶ Also yf there be lord and tenaunt
and the tenaunt letteth the tenementes
to a man for terme of lyfe the remain
dre to an other in fe yf the lord graunt
the seruyces to the tenaunt for terme
of lyfe a fe in this case the tenaunt for
time of lyfe hath fe in the seruyces but
seruyces be put in suspence during his
lyfe but his heires shall haue the ser
uyces after his death / and in that case

Tenere
in sus
pence.

U. v.

it.

Ca. r.



it nedeth nat any attournement / for
by the acceptaunce of the dede of hym
that ought to attourne / this is attour-
nement in hym selfe, &c. but where the
tenaunt hath as greate & hyghe estate
in the tenemētes as the lorde hath in
the seignoury / in suche case if the lorde
graunt the seruyce vnto the tenaunte
in fee / this enureth by waye of extyn-
guishment (Causa pater) ¶: *:

**Segnio
ry reuy-
ued.**



¶ Also yf ther be lorde and tenaunte
and the tenaunte makethe a lease to
one for terme of lyfe sauyng the re-
ueryon vnto hym / if the lorde graunt
the seignoury to the tenaunt for terme
of lyfe in fee in this case it behouethe
that he in the reueryon attourne to
the tenaunte for terme of lyfe by force
of that graunt / or otherwyle y^c graūt
is voyde for this that he in the reuer-
syon is tenaunte vnto the lorde.

¶ Also yf there be lorde and tenaunte
and the tenaunte holdeth of the lorde
by .xx. maner of seruices / and the lorde
graunteth his seignoury to an other
yf the tenaunte paye / or do any of the
seruyce to the grauntee that is a good
attourne.

Attournement. clxxxviii.

attournement of and for the seruyces
thoughe that the tenauntes entente
was to attourne but of the same par-
cell for thys that the seynoury is an
hole thynge though that there be dy-
uers maner of seruyces that the te-
naunte ought to do. :  : * : * : 

Ca. x.

CAlso yf there be lord and tenaunte
and the tenaunte holdeth of the lord
by many maner of seruyces / and the
Lorde graunteth the seruyces to an
other by fyne / yf the grauntee sue a (
Scire facias) oute of the same fyne
for any parcell of the seruyces / & hath
iugement to recouer this iugement is
a good attournement in the lawe / for
all the seruyces. :  : * : * : 

Attour-
nement.

 : * : 

CAlso yf the lord of the rent graun-
teth the seruyces vnto an other / and
the tenaunt attourneth by a peny / and
after the graunte dystrayneth for rent
behynde / and the tenaunt to hym ma-
keth rescous. In this case the graunte
shall nat haue assyse of the rent / but he
shall haue a wytte of rescous for that
the gifte of a peny was but by way at-
tourne

Ca. 10.

tournement. But yf the ternaunte had
gyuen vnto the graunt the sayde peny
as parcel of the rente or an halfe peny
or a farthinge by way of seasyon of the
rent / than this is a good attournemēt
& also it is a good seasen to the graunt
of the rent. And than vpon suche res-
tous the graunt shall haue assyse. &c.

¶ Also yf a man let tenementes for tme
of yeres by force of whiche the lesse is
sealed / and after the lorde graunteth
by his dede of the reuercyon for terme
of lyfe or in taylor / or in fee / it behoueth
in this case that the ternaunt for terme
of yeres attourne / or otherwyle no-
thing passeth such graunt by such dede
& if in this case the ternaūt for terme of
yeres attourne to the graunte / than
by and by passeth y^e franke tenement
on the graunte by suche attournemēt
withoute any lyuere of seasyon. &c. for
this yf any lyuere shall be made or ne-
deth to be made in suche case / than the
ternaunt for terme of yeres shall be at
tyme of the lyuere of seasyon out of his
possession which shuld be against rea-
son. ¶ Also if lande be let to a man for
terme

Attournement. fo. clxxxix.

terme of yeres the remayndre to an o
ther for terme of lyfe reseruinge to the
lessour a certayne rente by yere / and
lyuere of lesyn is made vpon this to a
tenaunte for terme of yeres if he in the
reuercyō for terme of yeres yf he in p^e
reuercyon in suche case graunte bys
reuercyon to an other &c. & the tenaunt
that is in the remayndre after the tyme
of yeres attourneth / this is a good at
tournement / and he to whom the re
uercyon is graunted by force of suche
attournement shall dysstrayne the te
naunte for terme of yeres for the rent
due after suche attournement though
the tenaunte for terme of yeres neuer
attourned vnto hym, & the cause is for
that where p^e reuercyon is dependant
vpon the statute of franke tenement, it
suffyseth that the tenant of the frank
tenement attourne vpon such graunt
of reuerciō, &c. & it is to wyte p^e where
a lease for terme of yeres or for terme
of lyfe / or a gyfte in the taylor is made
to any man reseruing to such a lessour
or donour certayne rente / yf suche a
lessour or donour graunt his reuercyō
to

Ca. x.

Ca. 1.

Hyfelton.

Lib. 3.

to an other / and the tennaunte of the
lande attourne / the rente passethe to
the graunte though in the dede of y^e
graunte of reueryon no mencyon is
made of the rente / for thys that the
rente is incydente to the reueryon in
suche case / and nat Ecouerso / for yf
a man will graunte the rente in suche
case vnto an other / reseruyng to him
the reueryon of the lande / though
the tennaunte attourne to the graunte
thys shall be but a rente seeke. &c.

¶ : * : ¶

¶ : * : ¶

¶ Also yf a man lette lande vnto an
other for terme of lyfe / and after suche
lease he confyrmeth by a dede the est-
ate of the tennaunte for terme of lyfe
the remayndre to an other in fee / and
the tennaunte for terme of lyfe accep-
teth the dede / than is the remayndre
in dede to hym to whome the remayn-
dre was gauen or limited in the same
dede / for by the acceptaunce of the te-
naunte for terme of lyfe of the same
dede / this is a grement of hym / and so

an

Attournement. Fo. CC.

an attournement in lawe / but yet he
in the remayndre shall haue none ac- Ca. r.
cyon of waste nor other benefyte by
suche remayndre / but yf that he haue
the same dede in hys hande by whiche
ye remayndre was graunted vnto him
and for thys that in suche case the re-
naunte for terme of lyfe wyl retayne
to hym the dede / to the entente that
he in the remayndre shall haue no ac-
cyon of waste agaynste hym / for thys
that he may nat come to haue the pos-
sesson of the dede. &c. It shall be good
in suche case for hym in the remayn-
dre that a dede endented be made by
hym: that wyl make the confyrma-
cyon / and the remayndre ouer. &c.
and that he that makethe suche con-
fyrmacyon deliuer a parte of the en-
denture to the tennaunte for terme of
lyfe / & the other parte to hym ye haue
the remayndre. &c. and than he by
shewyng of the parte of the endenture
may haue an accyon of wast agaynste
the tennaunte for terme of lyfe / and
all other aduantage that he in the
remayndre

remayndre may haue in suche case.

Ca. x.

¶ Also if. ii. ioyntenanntes be/ whiche letteth lande to an other for terme of lyfe/ yeldynge to theym and to theyre heires a certaine rent by yere. In this case yf one of the. ii. ioyntenautes in the reuercyon release to the other ioyntenaunt in the same reuercyon/ this release is good and he to whome the release made shall haue onely the rente of the tenaunt for terme of lyfe/ & shall haue a wytte of waste agaynst them though he neuer attourned by force of suche release / & the cause is for the pryuyte y^e ones was bytwene the tenaunt for terme of life and them in the reuercyon. In the same maner/ and for the same cause it is where a man letteth the lande to an other for terme of his lyfe the remayndre to an other for terme of hys lyfe / reseruyng the reuercyon to the lessoure/ in this case yf he in the reuercyon release to hym in the remayndre. &c. and to his heires all hys ryght. &c. Than he in the remayndre hath a fee. &c. And shall haue a writ of waste agaynst the tenaunt for terme of lyfe

五、

Also p^r ther be the lorde and tennaunte/ and the tennaunte holderth of the lorde by certayne rent / & by knyghtes seruyce p^r the lorde graunte the seruyces of the tennaunt by fine the seruyces be by & by in the graunter by force of the tyme / but yet the Worde maye nat dystayne for any parcell of hys seruyces withoute attournement. But if the tennaunt dye hys heyre being with in age the lorde shall haue p^r ward of the body of the heyre and of the lande

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










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Ca. 7.

et. Howbeit that he neuer attourned
for thys that the seignour was in
the graunte mayntenaunt by force of
the fine. And also in some cases yf the
tenaunt dye without heire the lord
shall haue the tenauncys by waye of
eschete. In the same maner it is yf a
man graunte the reuercon to hys te-
naunte for terme of lyfe to an other by
fine / the reuercon passeth anone to
the grauntee / by force of the fine / but
the graunte shall neuer haue accyon
of wast without attournement. et.

But yet yf the tenaunt for terme of lif
alyene in fee the grauntee may entre .
et. for thys that the reuercon was in
hym by force of the fine / and suche a
penacyon was to hys disheritaunce
But in this case where y^e lord graun-
teth the scrupes of hys tenaunte by
fine yf the tenaunte dye / hys heires be-
yng of full age the graunte by the fine
shal nat haue the relese / nor neuer shal
dystreyn for the relese except there
had ben an attournement of the tena-
unte that dyed. et. for of such thinges
that lyeth in dystresse vpon y^e whiche
a writ

Attournement. Fo. clxii.

A writ of replegiare is sued. & a man
ought to avowe the taking good and
right wife. &c. ther ought to be attorne
ment of the tennante. Howebeit that
the graunte of suche seruyces be by
fine. But to have warde of landes and
tenementes so holden durynge the no
neage of the heire of them to have by
waie of escheat there nebeth nat any
distresse. &c. but an entee in the lande
by force of right of the seignoury that
the graunte hath by force of the fyne
&c. :  :  :  :  :  :  :  :  :  :  :  : :

Ca. 1.

to an other for terme of lyfe or for ter-
me of yeres and deuyseth the reuercio
by hys testamēt to an other in fee or in
fee taylor and dyeth & a none after that
the tenaunt maketh waste / he to whō
the deuyse was made shal haue a wryt
of waste / howe be it that the tenaunt
neuer attourned & the cause is for this
that the wpll of the deuyse made by
the testament shal be perfozmed after
the entent of the deuyse / and so the
effecte of thys lyeth vpon the attour-
nyng of the tenaunt. &c. Than percase
the tenaunt wolde neuer attourne than
the wpll of the deuyse shulde neuer be
perfozmed / and therfore the deuysee
shal distraine or haue an accio of wast
&c. withoute attournement / for yf a
man deuise suche tenures to an other
by hys testament (habendū sibi imper-
petuum) & dyeth & the deuyse entreteth
he hath a fee symple (causa que supra)
and yet yf a dede of feoffement were
made to hym by the deuyse of the
same tenement (habendū & tenendum
sibi imperpetuum) yf liure and seisin
were neuer there vppon made he shal
haue

Attournement. fo. clxi.
have none estate but for terme of lyfe
ec.


Ad. 2.

C Also yf a man sealed of a manoure
whiche is parcell in demeane & parcell
in seruices and therof be dysseased but
the tenaunt wichholden of the manour
neuer attourne to the dissefour in this
case/ howbeit that the dysseasour dye
ec. and hys heyre is in by dyscent/ yet
may the dysseis dystrayne for the rent
beyng behynde and haue the seruyce
but yf the tenaunte come to the dyssea
sour & say we become your tenauntes
ec. or other wyse may be attournemēt
to hym. ec. and after the dysseasour
dyeth sealed. ec. than the disseis may
nat distraine for the rent/ for this that
all the maner descendeth to the heyre
of the dysseasour. But yf one holde of
me by rent seruyce whiche is a seruice
in gosse & an other that no right hath
claymed the same rente and reserue
and taketh the same rente of my tena
unte by cohaecyon of distresse / or by
other forme/ and so dysseaseth me by
takynge of suche rente/ howbeit that
suche a dysseasour dye so sealed by
suche

X.iii.

Case

suche takinge of the rent yet after his
 dethe I maye well dyspayne for the
 same rente be puge behynde befor the
 dethe of the disseasoure/ and after his
 dethe / and the cause is for this / that
 suche is not my dyscassour but by elect
 cyon at my wyll / for howbeit that he
 toke the rent of my tenaunte I may at
 all tymes dyspayne my tenaunte for
 the rent behynde. &c. for it is to me but
 as I wyll suffer the tenaunte to be by
 so muche tyme behynde of paymant to
 me of the same rent / for the paymant of
 my tenaunte to an other to whome he
 ne ought to pay is no dyscassyn to me
 nor shall nat put me oute of my rente
 withoute my wyll and electyon / for
 howbeit that I maye haue assyse a-
 gaynst such a taker. &c. yet this is at
 my electyon yf I wyll take hym as
 my dyscassour or nat so that suche dis-
 sentes of rentes ungroffe / ne putteth
 nat out the lordes fro the dyscasse /
 but that at echetyme they maye well
 dyspayne for the rent behynde / and in
 this case yf after the decease of hym
 that so wrongfully take the rente / I
 graunte

Attournement. Fo. clxiii.
graunte by my dede the seruyces to a
nother and the tenaunte attourneth / La. 2.
this is good ynoughe / and the seruyce
by suche graunte: and attournement
incontynente be in the graunter. &c.
But otherwysse it is / where the rent
is parcell of the maner and the dyssea-
four dyeth sealed of the holl maner as
in the case before sayde. :D: * : 

Discontinuaunce. La. xi.











Discontinuaunce is an auncient La. xi.
worde in the lawe & hath diuers
signyfycacions. &c. but as to one
entent it hath suche a signyfycacion /
that is to saye where a manne hath
alyened to an other certayne landes
or tenementes / and dyeth / and an o-
ther had ryghte to haue the same lan-
des or tenementes / but he maye not entre
in theym by cause of suche alyenacyon
&c. As yf an Abbot sealed of certayne
landes and tenementes in fee / and he
alyeneth the same landes and tene-
mentes to an other in fee taylor / or for
terme of lyfe / and the Abbot dyeth
hys successoure maye nat entre in the
same landes or tenementes / howe be-

E. llii.

it thas

Ca. xl.

it that he haue ryght to haue them as
in the right of his house / but he is put
to hys accyon to recouer the same lan
des or tenementes whiche is called a
wryt (de ingressu sine assensu capituli.

¶ Also yf a man sealed of lande as in
the ryght of hys wyfe. &c. and thereof
enfeoffeth an other. &c. and dyeth the
wyfe / ne may nat entre but she is put
vnto her accyon the whiche is called
Cui in vita).: : : : : : : : : : :

¶ Also yf tenaunte in the tayle of cer
tayne lande & therof enfeoffe an other.
&c. & hath yssue and dieth. &c. his yssue
may nat entre in the lande / howe be it
that he hath ryght and tytle to that /
but that he is put to hys accyon y^e is
called fformedon in descendre.

¶ Also yf there be tenaunt in the taile
and the reuercyon is to the donoure &
to hys heires / yf the tenaunte make a
feoffemēt. &c. and dyeth without issue
he in the reuercyon may nat entre but
is put to hys accyon of fformedon in
the reuerture / and in the same maner
it is where the tenaunte in the tayle
of certayne lande wher the remayndre
is to

Dyscontinuaunce. **Jo. clxx.**

is to an other in the taylor / or to an other in fee of the tenaunt in the taylor alpeneth in fee or in fee taylor. &c. and after dyeth without issue they in the remainder may nat entre / but be put to they wryt of formedon in the remainder. &c. and for thys that by force of suche feoffement & suche alpenacions in the cases aforesayde & in lyke cases they whiche haue tyle & ryght after the deth of suche a feoffour or alienour may nat entre but be put to they actions (vt supra) Therfore suche feoffementes and alpenacions be called dyscontinuaunces. **Ca. xl.**

¶ Also yf tenaunt in the taylor be dysseised / and he releaseth by his dede to the dysseysour and to his heyres all the ryght that he hath in the same lande thys is no dyscontinuaunce for thys that nothyng of ryght passeth to the dysseysour but for terme of lyfe of the tenaunte in the taylor that made the release. &c. But by the feoffement of tenaunt in the taylor a fee simple passeth by the same feoffemente by force of lyf. were of lesyn. &c. but by force of a release passeth

Ex. b.

passeth

La. xi.

Hytelton. lib. 3.
passeth by the same feoffment by force
of lpuere of seafyn. &c. but by force of a
releafe passeth / but the ryght & he may
lawfully and ryghtfully releafe with
out hurt or damage to other persons
whiche thereto haue ryght after his de
cease. &c. and so it is a grete diuersite
bytweene a feoffment of the tenaunt in
the taylor / and a releafe of the tenaunt
in the taylor. But it is sayde that yf te
naunt in the taylor in thys case releafe
to the dyssealoure / and byndeth hym
and hys heires to warrantysse &c. & dy
eth / this warranty descendeth to his
ysue / than that is a dyscontinuaunce
because of warrantysse. &c. But if a ma
haue ysue a son by hys wyfe / hys wyfe
dyeth & after he taketh an other wyfe
& the tenementes be gyven to hym & hys
seconde wyfe / and to yf heires of their
two bodys engendred / and they haue
issue an other son / and than yf seconde
wyfe dyeth / and after the tenaunt in
taylor is dyssealoued & he releaseth to hys
dissealoure all his ryght, &c. & byndeth
hym & hys heires unto warrantysse &
dyeth / this is no dyscontinuaunce to yf
ysue

Discontinuance. No. clxvi.

pſſue in the taylor by the ſeconde wyfe **Ca. xi.**
 but he maye well entre. &c. for this yf
 the warrantyeſe deſcended to hys el-
 der brother that his father had by his
 fyrſte wyfe. In the ſame maner where
 tenentes be dyſſeizable to the ponger
 ſon after the cuſtome of boroughe en-
 gelyſhe ben tailed. &c. & the tenaunt in
 the taylor hath pſſue .ii. ſonnes and is
 dyſſeized & he releſeth to his dyſſeizour
 al hys ryght with warrantyeſe & dieth
 the ponger ſonne maye entre vpon the
 dyſſeizour notwithstandinge the war-
 rantyeſe/for thys that the warrantyeſe
 deſcendeth to the elder ſon/for alwaye
 the warrantyeſe deſcendeth.&c. to hym
 that is heire by the comon lawe.

¶ Also if an abbot be dyspleased and he
releaseth to the dyspleasour with war-
rantypse/ this is no discontinuance to
his successoure/ for this that nothing
passeth by this release/ but the right
that he hath duringe the tyme that
he is Abbot / and this warrantypse is
expired by his expiracion / or by his
deathe. :G: :4c: * 102: * :4c: :G: :4c:

¶ Also if tenaunt in the taile be lesed or
certayne

Ca. xl.

certayne lande/ and he letteth y^e same lande for terme of yerres / by force of whiche lease the lessee is in possession to whiche possessyō the ternaunt in the taylor by hys dede releaseth al his ryght that he hath in the same lande to the lessee & to hys heyres for ever/ thys is no dyscontinuaunce/ but after the decease of the ternaunte in the taylor hys yssue may well entre/ for thys that by suche release nothyng passeth but for terme of lyfe of the ternaunt in the taylor In the same maner yf the ternaunte in the taylor confyrme the estate of the lessee for terme of certayne yerres to have and to holde to hym and to his heyres that is a dyscontinuaunce for thys that nothyng passeth by suche confyrmacon/ but the estate yf the ternaunte in the taylor had for terme of hys lyfe.

¶ Also yf ternaunte in the taylor by his dede graunt to an other all hys estate that he hath in the tenementes intayled to hym to have and to holde al his estate to the other / and to hys heyres for ever and helynereth seayn accordyng. In thys case the ternaunte to whome

Discontinuaunce. Fo. clxvii.

Ca. xi.

Whom the alpenacyō was made hath
none other estate but for terme of lyfe
and so it maye wel be proued that the
tenaunte in the taylor may nat graunte
ne alpen ne make any ryghtfull estate
of the franke tenement to an other per-
son but for terme of hys owne life. &c.
For yf I gyue certayne lande in the
taylor to a man / sauyng the reuercyon
to me / & after the tenaunt in the taylor
enfeoffeth an other in fe^e feoffe hath
no ryght estate in the tenementes for
ii. causes. One is for that by such feof-
fement my reuercyon is discontinued
which is a wroge acte and nat a right
full acte. An other cause is yf the te-
naunt dye and hys yssue sueth a wryt
of formedon agaynst the feoffe / & wryt
shall saye and also the declaracyō that
the feoffe wrongfully hym deforced. &c.
Ergo yf he with wroge hym defor-
ced he had no ryght estate. :G: *

¶ Also yf lande be lette to a man for
terme of hys lyfe the remayndre to an
other in taylor / yf he in the remayn-
dre will graunte his remayndre to an
other in fe by hys dede / and y^e tenaunt
for

29. 11.

for terme of lyfe attourneth/this is no
discontinuaunce of the remayndre.

¶ Also if a man be tennant in the taylor
of auoufon in grosse / or of comon in
grosse / yf he by hys dede wyl graunt the
auoufon or p^e comon to an other in fe
this is no discontinuaunce / for in such
case the graunte hath no estate but for
terme of the tennante in the taylor that
made thys graunt. &c. Note well that
suche thinges as passe by way of graunt
made by dede & nat by acte in the con-
strey. &c. suche graunte maketh no dys-
continuaunce as in the case afo: sayde
and other lyke cases. &c. and howe be
it that such thynges be graunted in fe
by fyne leued in the kynges court. &c.
yet they make no discontinuaunce. &c.

¶ Also yf a man be seased in taylor of
landes deuifable by testament. &c. and
he deuifeth it to an other in fee / and dy-
eth / and the other entreteth / this is no
discontinuaunce / for this that no dys-
continuaunce was made in the lyfe of
the tennante in the taylor. &c. *

¶ Also yf an abbot haue a reuerfion
or a rent seruyce / or rent charge / and
wyl

Dyscontynuaunce. fo. clxxviii.

Wyll graunte that reuerce on rent ser-
uice or rent charge to an other in fee / **Ca. xl.**
and the tennaunte attourneth. &c. this
is no dyscontynuaunce. In the same
manner it is where an Abbot is sealed
of auoupsoun or of suche thynges that
passe by waye of graunte without le-
uere of seaisyn. &c. : **G : x : *** : **G**

Also yf there be graunde father te-
naunt in the tale father & son / and yf
graunde father is dysseased by the fa-
ther / & the father maketh a feoffement
in fee without warrantise and dyeth /
and after the graunde father dieth the
sonne may well entre vpon the feoffee
for this that this was no dysconty-
nuance / in so muche that the father
was nat sealed by force of the tale at
the time of the feoffement. &c. but was
sealed in fee by the dysseaisyn made to
the graunde father. &c. : **G : x : *** : **G**

Also yf a womā enheryte & haue an
husbande within age / whiche maketh
a feoffement of the tenementes of the
wyfe & dieth / it hath ben questyoned if
the wyfe maye entre or nat. And it se-
meth to some mē y the entre of y wyfe
after

Ca. xi.

after the death of her husbände shal be
 lefull in thys case / for whan the hus-
 bande made such a scoffement. &c. He
 might wel entre nat withstanding such
 scoffement durpng the couerture / and
 he myght nat entre in his owne right
 but in the ryght of hys wyfe. &c. Ergo
 suche ryght that he had to entre in the
 right of hys wyfe. &c. that ryght of en-
 tre abydeth to the wyfe. &c. after hys
 decease and it hath be sayde that yf. ii.
 toyntenautes being within age make
 a scoffement in fee / and one of the chyl-
 dzen dyeth / and that other suruiveth
 inso muche that both chyliden myght
 entre jointly in their liues / this ryght
 of entre groweth al to him that surui-
 ueth / & so he may entre in to the hole.
 ¶ Also the heyre of the husbände that
 made the scoffemente within age may
 nat entre / for this that no ryght descen-
 deth to suche an heyre in the case afoze
 sayde for this y^e the husbände had ne-
 uer any thyng but in the right of his
 wyfe. And also whan a chylde maketh
 a scoffement beinge within age / thys
 shall neuer greve: nor hurte hym / but
 that

Dyscontinuanee. Fo. clxix.
that he maye well entre. &c. and thys
shulde be agaynste reason that suche a **Ca. x.**
feoffmēt made by hym that was nat
able to make suche a feoffement shal
greue oz hurte other to toll other of
they; entres. &c. and for these causes
it semeth to some that after the dethe
of suche an husbande so beinge withyn
age at the tyme of the feoffement. &c.
that hys wyfe may well entre. &c.

Also yf a woman enheritryce ta-
keth an husbande and hath yssue a son
and the husbande dyeth / & she taketh
an other husbande / and that seconde
husbande letteth the lāde that he hath
in the right of hys wyf to an other for
terme of hys lyfe / and after the wyfe
dyeth / and after the tenaunt for terme
of lyfe surrendzeth his estate to the se-
cōde husbande. &c. Enquyre if þe son of **En-**
the wyfe may entre oz nat in this case **quyre.**
vppon the seconde husbande durynge
the lyfe of the tenaunt for terme of life
&c. But it is clere lawe in thys cause
that after the dethe of the tenaunte for
terme of lyfe / the sonne of the wyfe
may well entre / for thys that the dys-

A. r.

continuu

La. xi.

Uytelton . Lib. 3 .

continuauunce that was made all only
for terme of lyfety is determyned . &c by
the deth of the same ternaunte for tme
of lyfe . &c.

✠ : ✠ : ✠

Also if the pson or vicar of a church
alpen certayne landes or tenementes
parcell of hys glebe . &c. to an other in
fee & opeth or telygneth . &c. his succes-
sour may wel entre . Natwithstādyng
suche alpenacyon as it is sayde in a
Nota Anno . ii . h . iii . termino My-
chaeles quod sic incipit nota quod dic-
tum fuit pro lege . In a wyttie of ac-
compte brought by the mayster of the
colledge that yf a persone / or a bycar
graunte certayne landes that is of the
ryght of hys church to an other / and
dieth or chaūgeth that his successour
may entre . And I trowe that the case
is for thys that the person : or bycar
that is sealed . &c. in ryghte of the fee
symple dwellynge in none other per-
son . And for thys cause his successour
maye well entre / natwythstandynge
suche alpenacyon . &c. for a bishop may
haue

Dyscontinuaunce. **Jo. clxx.**
 haue a wytte of ryght of tencementes
 of ryght of hys byshopryche / for thys **Ca. xl.**
 that the ryght of see symple abyde the
 in hym and hys chapter / and a deane
 maye haue a wytte of ryght . &c . for
 thys that the ryght abyde the in hym
 and hys chapitre / and an Abbot may
 haue a wytte of ryght / for thys that
 the ryght abyde the in hym and in hys
 couentie (et sic de alijs casibus consi-
 milibus) . &c . but a person or a byear
 may nat haue a wyte of ryght . &c . but
 the hygheste wytte that he may haue
 is a wytte (de Juris utrum) the which
 is a greate proofe that the ryght of see
 symple is in obeyaunce / that is to say
 all onely in the remembraunce enten-
 demente : and consyderacyon of the
 lawe for me semeth that suche a thing
 in suche a ryghte that is sayde in dy-
 uers bookes to be in by obeyaunce / is
 as muche to saye in latyn . S . (talis
 res bell tale rectum que vel quod non
 est in homine / ad tunc superflite / sed
 tanto modo est / et concessit in consi-
 deracione et intelligencia legis) . &c .

**A Juris
 utrum.**

**Se sima
 ple in
 obeya
 aunces**

Ca. xi.

et quidem alii dixerunt talem rem aut tale rectum fore in nubibus, &c. But I suppose that they vnderstande by these wordes (in nubib⁹) &c. as I haue sayde before. ¶

¶ Also yf a person of a churche dye / now the franke tenement of y^e glebe of the personage in no man durynge the tyme that the personage is voyde but is in obepaunce / that is to saye in consideracyon and intelligence of the lawe tyll an other be made person of same churche / and immediatly whan an other is person / the franke tenement in dede is in hym as successour.

Obiect-
tion.

¶ Also some men peraduenture wyll argue and saye that in so moche that the person with y^e assent of the patrō & ordinary may graunt a rent charge out of the glebe of hys personage in fee & so charge the glebe of the personage perpetually. Ergo they haue fee simple or. ii. or one of them hath fee simple at the lest. &c. to this it may be answered that it is a princyppe in the lawe that of euery lande there is a fee symple in some

Discontinuaunce. fo. clxxi.

some man/ or elles the fee symple is in
obeyaunce. &c. And an other principle **Ca. xi.**
is that every lande of fee symple. &c.
may be charged with a rent charge in
fee by one way or by an other. &c. and
whan suche rente is graunted by the
dede of the person the patron and the
ordynary in fee/ none shall haue no pre
iudice or losse by force of such graunt
But the graunt ours in their lyues / &
the heyre of the patron and successour
of the ordynary after their deceases &
after such charge yf the person dye his
successour maye nat come to the sayde
church to be person of y^e same church
by the lawe. But by presentme of the
patron / and admissyon / & institucion
of the ordynary &c. And for thys cause
it behoueth that the successour holde
hym contente / and agreed with that
which hys patron and ordynary lawe
fully haue done before. But the cause
that such rent charge is good for thys
that they whiche had entrees in the
sayde churche/ that is to say y^e patrone
after the lawe temporall / and the or
dynary after the lawe spyrytuall were

AA. iii.

assentyd





assented or parties vnto such a charge
 &c. And thus semethe the verpe cause
 that suche glebe may be charged in
 perpetuyte. &c. ¶

¶ Also yf a bysshoppe alien landes
 whiche be parcell of hys byshopryche
 and dyeth/ thys is a dyscontinuaunce
 to hys successoure / for thys that he ne
 may nat entre but is put to hys wyte.
 De ingressu sine assensu capituli. &c.

¶ Also yf a deane alien lande parcell
 of hys deanry & dyeth/ his successoure
 ne maye nat entre/ but he may haue a
 wyte. (De ingressu sine assensu episco
 pi et capituli) &c. But yf the deane and
 the chapitre haue lande to them / and
 to theyr successours in comō. &c. How
 beit that the deane alien suche landes
 hys successours maye well entre / for
 thys that the franke tencmente at the
 tyme of the alienacyon was as well
 in the chapytre as in the deane. But
 where the deane is sole sealed / as in
 ryght of hys deanry / than suche alie
 nacyon is a dyscontinuaunce to hys
 successour

Dyscontinuaunce. Jo. clxxii.
Successour as it is afore sayde. Also **Ca. xi.**
some men wyll argue / and saye that
yf an abbot and hys couente be leased
in theyr demeane as of fee of certayne
lande to them & to theyr successours.
ec. and the abbot withoute assente of
hys couente alpeneth the same lande
vnto an other and dyerhe / thys is a
dyscontinuaunce to hys successours.
ec. and by the same they wyll say that
where a Deane and a chapytre be lea-
sed of certayne landes to theym or to
theyr successours / yf the deane alpen
the same landes. ec. thys shalbe a dys-
continuaunce to hys successours. So
that thys successour he may nat entre
ec. To thys maye be aunswered that
there is greute dyuersyte bwtwene the
sayde two cases / for whan a Abbotte
and the couente be leased . ec. yette yf
they be dysleased / the Abbotte shall
haue assyse in hys owne name with-
oute the namynge of hys Couente.
ec. ¶ And yf a man wyll sue a
recipe quod reddat) of the same lan-
des whan they be in the handes of the
Abbot.

Ca. xi.

abbot and hys couēt it behoueth that
 suche an accyon be sued agaynste the
 abbot onely without namynge of the
 couent. &c. For this that all they bene
 dede persons in the lawe saue only the
 abbot that is souerayne. &c. and thys
 is cause of the soueraynte. &c. for elles
 he shulde be as one of the other mōkes
 of the couente. &c. But the deane and
 the chappre be no dede persones in the
 lawe. &c. For eche of theym may haue
 an accyon by him selfe in diuers cases
 and of suche landes : or tenementes
 whiche the Deane and chappre haue
 in comon. &c. yf they be dysseased that
 the deane and the chappre shall haue
 alyse and nat the deane alone/ and yf
 an other wyll haue an accyon reall of
 suche landes or tenementes agaynste
 the deane. &c. it behoueth hym to sue
 agaynste the deane and chappre/ and
 nat agaynste the deane alone. &c. and
 so appereth greate dyuersyte betwene
 these. in cases. &c.:  :  :  : 

Also yf the master of an hospytall
 discontinue certayne lande of hys hos
 pytall hys Successours ne maye nat
 entre

Dyscontinuance. Fo. clxxiiij.
entre but he is put vnto hys wyrt (De Ca. xi.
ingressu sine assensu confirm et sorozu
sorozu) and all such wyrttes do playne
ly appere in the regestres. &c.

Remitter. Ca. xii.

G: * : S

Remitter is an auncyente terme
in the lawe / & it is where a man Ca. xiiij.
hath. ii. tytles to landes or tenementes
that is to say one of an elder tytle and
an other of the later title / & he cometh
to the lande by the latter tytle / yet the
lawe adiugeth him to be in by force of
the elder tytle / for thys that the elder
tytle is the more sure tytle / & the more
worthy title / & than whan a mā is iu-
ged in by force of y^e more elder title thys Remit-
is vnto hym sayde a remitter / for this ter by re
that the lawe shall admyt to be in the son of
lande by the elder title / as if y^e tenant dyscent.
in the taylor / discontinue the taylor and
after he dysseaseth hys dyscontinuee /
and so dyeth seased / wherby the tene-
mentes descende to hys yssue / as to
hys colen inheritable by force of the
taylor / in thys case thys is to hym to
whom the tenementes descende whiche
A. A. v. hath

Es. xlii.

hath ryght by force of the taylor a re-
mytter in the taylor take/ for that what
the lawe shall put and adiuge hym to
be in by force of the taylor / whiche is
hys elder tyle / for yf he shall be in by
force of dyscent than the dyscontynue
may haue a wryt of entree vpon the dis-
seyn in the per / agaynste hym / and
recover the tenementes / and hys da-
mages / but in so muche that he is in
by force of the taylor / the tyle and the
intresse of the dyscontynue is al vter-
ly adnulled / and defete. &c.

¶ Also yf tenaunt in the taylor infeoffe
in fee hys sone or hys colyn inheryta-
ble by force of the taylor / the whiche
sone or colyn at the tyme of feoffement
is within age / and after the tenaunt
in the taylor dyeth / and he to whom y^e
feoffement was made is hys heyre by
force of the tyle in the taylor / thys is
a remytter to the heyre in the taylor to
whome the feoffement is made. For
howbeit that durynge the lyfe of the
tenaunte in the taylor / that made the
feoffement suche heyre shalbe adiuged
by force of the feoffement / yet after the
deathe

death of the ternaunte in the taylor the
 heyr: shalbe adiuged in by force of the
 taylor. &c. and nat by force of the feoffe-
 ment and though he that suche an heyr:
 was of full age at the time of the death
 of the ternaunte in the taylor that made
 the feoffement/this maketh no matter
 yf the heyr: were within age / at the
 tyme of the feoffement made to hym/
 and yf suche an heyr: beynge within
 age at tyme of the feoffement cometh
 to full age luyng the ternaunte that
 made the feoffement / and so beynge of
 full age / he chargeth by hys dede the
 same lande with a comē of pasture or
 with a rent charge / and after the te-
 naunte in the taylor dyeth. Nowe it se-
 meth that the lande is dyscharged of
 an other estate in the lāde / thā he was
 at tyme of the charge made in so much
 that he is in hys kemytter by force of
 the taylor / and so the estate that he had
 at the tyme of the charge is utterly de-
 fect. &c. : * : * : * : * : * : *

¶ Also a pryncypal cause is why such
 an heyr: in þ cases aforesayde / & other
 cases scibable shalbe said in his kemyt

is for thys that there is no person a-
gaynste whome that he maye sue hys
wytte of formedon / for agaynst hym
selfe he may nat sue / and he may nat
sue agaynst none other / for none other
is tenaunt in the franke tenemēt / and
for that cause the lawe adiudged hym
in hys remitter / that is to say in suche
plite as he had lawfully recovered the
same lande agaynst an other .

¶ Also if lande be tailed to a man and
hys wyfe / and to the heyre of theyr . ii .
bodys engendred / the whyche haue
ysue a daughter and the wyfe dyeth /
and the husbände taketh an other and
hath yssue an other daughter and dis-
continucth the taylor and after he dys-
seaseth the discontynuee / and so dyeth
seased / now the lande descendeth to

¶ Te-
nauntes
in comē
by dys-
cent
wher as
aūcestre
died sole
seised .

the two daughters / In this case as to
the elder daughter that is inheritable
this is a remitter but of the halfe / and
as to the other halfe she is put to her
accyon of formedō agaynst her syster
for in thys case two sisters be nat te-
nauntes in perceuery but by tenaūtes
in comon / for thys that they be in by
dyuers

byuers tytes / for the one syſter is in
her remyttter by force of the taile as to
that that vnto her belongeth. And the
other ſiſter is in as to chat that belon-
geth to her in fe ſymple by the dyſcent
of her father. In the ſame maner it is
yf the tenaunt in the taile enſeoffe his
heyr apparaunte in the taylor beyng
the heyr within age / and an other
Jointenaunt in fee / and the tenaunte
in the taylor dieth. Nowe the heyr in
the taylor is in hys remyttter as to the
halfe / and as to that other halfe he is
put to his wyrt of ſormedon. &c.

¶ Also yf tenaunt in the taylor inſeoffe
hys heyr apparaunt / the heyr beyng
of full age at tyme of the ſeoffement /
and after the tenaunt in the taile dyeth
thys is no remyttter to the heyr / for
this that it was his owne ſoly that he
beinge of full age wolde take ſuche ſe-
offement. &c. But ſuche ſoly maye nat
be adiudged in the heyr beyng wyth
in age at the tyme of the ſeoffement.

¶ Also yf tenaunt in the taylor inſeoffe
a woman in fee and dyeth / & hys iſſue
within age taketh the woman to wiſe
thys

Ca. xii.

thys is a remyttre to the chyldre / and
the wyfe than hathe nothing / for this
that the husbände / and the wyfe bene
but one person in the lawe . And in p^e
case the husbände maye nat sue a writ
of Formedon / but yf that he wyll sue
agaynst hym selfe the whiche shalbe
inconueniente / and for that the lawe
iuge th the heyre in hys remyttre / for
this that no folp may be arated to h^e
beinge within age at tyme of the spou
sals . &c . And if the heyre be in hys re
myttre by force of the taylor / it folow
eth by reason that the wyfe hathe no
thyng . &c . for in so muche that the
husbände / and the wyfe be but one per
sonne the lande may nat be leuered by
halves / and for suche cause the husbāde
is in hys remyttre of the hole . But o
therwyse it is yf suche an heyre be of
full age at tyme of the spousals / that
than the heyre hath nothyng but in
the ryght of hys wyfe .

Remit
ter by
reason

¶ Also yf a woman sealed of certayne
lād in fe taketh an husbände / p^e which
alpeneth the same lande to an other

Remytter. Fo. clxvi.

in fee/ and the alpyne letteth the same
lande to the husbande / and the wyfe
for terme of theyr two lyues/ sauynge
the reuercion to the lessour/ and to his
heyrer/ in thys case the wyfe is in his
remytter / and she is seased in dede in
her demeane / as in fee / as she was
before / for thys that the takynge of
estate shall be adiudged in the lawe the
dede of the husbande/ and nat the dede
of the wyfe / so that no soly maye be
iudged in the wyfe that is couerte in
suche case. And in this case the lessour
hathe nothynge in the reuercion / for
thys that the wyfe is seased in fee.

But in thys case / yf the lessoure wyll
sue an an accyon/ of waste agaynst the
husbande and hys wyfe/ for thys that
the husbande hathe made waste / the
husbande maye nat barre the lessoure
for to shewe thys that the takynge of
estate made vnto hym / & to hys wyfe
made a remytter to hys wyfe/ for this
that the husbande stoppedde to saye /
thys agaynst hys feoffemente / and
owne repyrell of estate for terme of
lyfe to hym/ and to hys wyfe/ and yet
the

Ca. xii.

of the
lessour
seised.

Ca. xl.

Estopped
by a
matter
in dede.

the lessoure hath no reuercyō/ for this
that the fee symple is in the wyfe/ So
a man may se a matter in thys case y^e
a man shalbe stopped by a matter in
dede though he no wyptynge by dede in
dented or other wyse be thereof made.
But yf in an accyon of waste the hus-
bande make defaulte at the graunde
dystressse/ and the wyfe praieth to be re-
ceyued/ and is receyued/ she shall well
she we al the matter and howe she is in
her remitter/ and shall bar the lessoure
or hys accyon. For in eury case that
the wyfe is receyued for default of her
husbonde she shall pleade and haue the
same aduantage in pleadyng as she
were a woman sole. And howe be it
that the alpynee made the lease to the
husbande and his wife by dede enden-
tyd/ yet thys is a remyter to the wyfe
& though the alpyne yelded the same
lande to the husbande and hys wyfe
by fyne for terme of theyre lyues / yet
this is a remitter to the wyfe/ for this
that y^e wife couerte that taketh estate
by fyne shall nat be examyned by the
iustices. And here note wel that whan
any

Remytter.

Jo. clxxvii.

Ca. xii.

any thyng that passe fro the wyfe that
is couert of husbāde by force of a fyne
the husbāde and hys conysaunce of
ryght to an other. &c. or make graunt
and yelde to an other / or release by a
fyne to an other (Et sic de similibus)
where the ryght of the wyfe passethe
from the wyfe by force of the same / the
wyfe in al suche cases shalbe examined
before that the tyme be accepted. And
suche fynes conclude suche wyues co-
uert for ever. But where nothyng is
moued in the fyne but al only that the
husbāde and the wyfe take estate by
force of the same fyne / thys shal con-
clude the wyfe / for thys that in suche
case he shal neuer be examyned.

¶ Also pftenaunt in the taylor dyscon-
tinue the taylor and hath a doughter
and dyethe / and the doughter beinge
of full age takethe an husbāde / and
the dyscontinuaunce maketh a lease
of thys to the husbāde and hys wyfe
for terme of theyr lyues / thys is a re-
mytter in dede to the wyfe / and the
wyfe is in by force of the taylor (Causa
qua supra).

BB. i.

Also

Ca. xii.


E Also yf lande be gyuen to the hus-
bande & his wyfe to haue and to holde
to them and to the heyres of theyr . ii .
bodies begotten / & after the husbande
alyeneth the lande in fee / and taketh
agayne an estate to hym and to his
wyfe for terme of theyr two lyues. In
this case thys is a remytter in dede to
the husbande and the wyfe maugre the
husbande / it may nat be a remytter to
the wyfe except it be a remytter to the
husbande / for thys that the husbande
and his wyfe be but one person in the
lawe though that the husbande is stop-
ped to clayme / thys to be a remytter
in hym agaynst his alyenacyon / and
his owne repysell as it is aforesayde.


E Also yf lande be gyuen to a woman
in the taylor / the remaindre to an other
in the taylor / the remayndre to the
thyrde in the taylor / the remayndre to
the fourthe in fee / and the wyfe taketh
an husbande / and the husbande dys-
continuethe the lande of the wyfe / by
thys dyscontinuaunce all the remayn-
dres be dyscontinued / for yf the wyfe
dye without yssue / they in the remayn-
dre

Remytter. **Jo. clxxviii.**
he shall haue no reue dye / but to sue
theyr wyttes of fozmedon in the re-
mayndre / whan they come to theyre
tyme. &c. But yf after suche dysconty-
nuance estate be made to the husbāde
& hys wyfe for terme of theyr. ii. lyues
oz for terme of an others lyfe, oz an o-
ther estate .&c. for thys that thys is a
remytter to the wyfe / thys is a remyt-
ter to all t hose in the remayndre . &c.
for after thys that the wyfe that is in
her remytter dieth without yssue they
in the remayndre may entre. &c. with-
out any accyō oz sute. &c. In the same
maner it is of theym whiche haue the
reuercyon after suche taylor. &c.

Also yf a man let a house to a wo-
man for terme of her lyfe sauynge the
reuercyon to the lessour / and after one
sueth a faynte and false accyō agaynst
the woman and recoueret he the house
agaynst her by defaute / so that the wo-
man may haue agaynst hym a wyte.
(Quod ei defozciat) after the statute of
westm the seconde capitulo. iiii. now
is the reuercyon of the lessour dyscon-
tynued so yf he ne may haue no accyō

Ca. xii.
Remit-
ter by
reason
of a rec.

of waste. But in this case yf the womā take an husbāde / and he that recou-
reth letteth the house to the husbāde
& hys wyfe for terme of theyr. ii. lyues
the wyfe is in her remyttter byforce of
the fyrste lease. And yf the husbāde &
the wyfe make waste / the fyrste lessour
shal haue agaynst him a wyrt of waste
for this / that in so much that the wyfe
is in her remyttter / he is remytted to
hys reuercyon. But it semeth in thys
case yf he that here cometh by the false
accyon wyl bynge an other wyte of
waste agaynst the husbāde & his wife
the husbāde hath no remedy agaynst
hym but to make defaute at the great
distresse. &c. and to cause the wyfe to
be receyued and to plede the matter a
gaynst the seconde lessour / & to sweere
that the accyon by which he recouered
was false and fayned in the lawe / and
so the wyfe may barre. &c. 

 Also yf the husbāde dyscontynue
the lande of hys wyfe and after taketh
estate to him & to his wyfe / and to the
thyrde man for terme of theyr lyues /
or ife this is a remyttter to the womā /
but

but as to p^c moyte. And as for y^e other **Ca. xli.**
moyte it behoueth her after the deth of
her husbände to sue a (Cui in vita) &c.

I Also yf the husbände dyscontynue
the lande of hys wyfe & go ouer the see
and the dyscontynue let the same lande
to the woman for terme of lyfe / and
delyuer to her seasyne / and after the hus
bände cometh and agreeth to that ly
uere to her seasyne / thys is a remytter
to the woman / and yet yf the woman
hadde ben sole at the tyme of the lease
made to her / thys shulde be to her a re
mytter / but in so muche as she was co
uert baron at the tyme of the lesse and
y^c lyuere of seasyne made to her though
that she only toke the lyuere of seasyne
thys was a remytter to her bycause a
woman couert shalbe adiudgyd as an
infant within age in suche case. &c. **En**
guyze in this case if the husbände whā
he cometh agayne wyl dysagre to the
lease and lyuere of seasyne made to hys
wyfe in hys absence yf thys shall put
the woman fro her remytter.

I Also if the husbände dyscōtynue the
tenementes of his wyfe / & the discōtinue

Ca. xii.

Collu-
sion ab-
ozred
in the
lawe.

is dysseased/ and after the dyssealoure
letteth the sayde tencmtes to the hus-
bande and his wyfe for terme of lyfe /
this is a remyttter to the wyfe / but yf
the husbande and the wyfe were of cou-
yn or consent that the disseasyn shuld
be made / than it is no remyttter to the
wyfe bycause she is a dyssealouresse .

But yf the husbande were of couynne
and consent to the dysseasyn / and not
the wyfe / than suche lease made to the
wyfe is a remyttter because that no de-
faute was in the wyfe. ¶ : * : * : ¶

¶ Also yf suche a dyscontynuce hade
made estate of fre holde to y^e husbande
and the wyfe made by endenture vpon
condycyon. S. reseruyng to the dys-
contynuce a certayne rent / and for de-
faute of paymente a reentre / and by-
cause that the rente is behynde the dis-
contynuce entreteth of thys entree the
woman shall haue assyse of nouell dys-
seasyn after the dethe of her husbande
agaynst the dyscontynuce / bycause
that the condycyon was holly aduul-
ted in so muche as the woman was in
her remyttter / yet the husbande with
hys

Remytter. **Jo. clere.**

his wyfe coulde nat haue assyse because **Ca. xli.**
the husbände is stopped. **R: *:**

Also yf the husbände dyscontynue
the tenementz of hys wyfe / and taketh
estate agayne for terme of his lyfe / the
remaiנדre after hys dyssease to hys
wyfe for terme of her lyfe / in thys case
thys is no remyttter to the wyfe du-
rynge the lyfe of her husbände because
that durynge the lyfe of the husbände
the wyfe hath nothyng in the fre holde
but yf in thys case the wyfe ouer lyue
the husbände / thys is a remyttter to
the wyfe / bycause that a free holde in
lawe is fallen vppon her maugre her
wyll / And in so muche that she can
haue no accyon / agaynst none other
person / and agaynst her selfe she can
haue no accyon / therfore she is in her
remyttter. For in thys case though
that the woman entre nat in the te-
nementes yet a straunger that hath
cause to haue accyon / maye sue hys
accyon agaynst the woman of the
same tenementes bycause she is te-
naunte in lawe though she be nat te-
naunte in dede / for tenaunte of franke

Remyt
ter by
reason
of a rec.

BB. iiii.

tenet

Ca. xii.

Note of
whiche
franke
tenement
assyle
shalbe
maynteyned.

tenemente in dede is he that yf he be
dysseased of hys franke tenement may
haue assyle/ but ternaüt in lawe before
his entre shall haue no assyle/ & if a mā
seased in fe of certayn lande hath yssue
a son which taketh a wyfe/ & the father
dyeth sealed and after the sonne dyeth
before any entre made by him in to the
lande/ the wyfe of the sonne shalbe en-
dowed in the lande / and yet he had no
franke tenemente in dede / but he had
a fee and a franke tenemente in lawe/
and so note well that a (precepe quod
reddat) maye as well be mayntayned
agaynst hym that hath franke tene-
mente in lawe as agaynst hym that
hath franke tenemente in dede.



¶ Also yf ternaunte in the tayle haue
yssue. ii. sonnes of full age/ and he let-
teth the tailed lande to the elder sonne
for terme of hys lyfe / the remayndre
to the yonger sonne for terme of hys
lyfe / & after the ternaunte in the tayle
dyeth. ¶:✱: In thys case the elder
sonne is nat in hys remyttter bycause
that he toke estate of hys father/ but if
the

No. cxxxi.

La. xii.

Also yf tennaunt in the taylor enfeoffe
hys sonne and an other of the taylor
lande in fee / and lyuere of seassyn ys
made to the other accordyng to the
dede the sonne nat knowyng thereof
noz agreyng to the feoffemente / and
after he that toke the lyuere of seassyn
dyeth and the sonne occupyeth nat the
lande noz taketh any profyt of the
lande

Ca. xii.

lande duryng the lyfe of hys father / & after the father dyeth / now theys is a remyttter to the sonne bycause the free holde is fallen vppon hym by the surtyuoure / and no defaute was in hym bycause he neuer agreed. &c. in the lyfe of his father and ther is none agaynst whome he may pursue hys wryt of formedon. &c. for yf a man be dysseased of certayne lande / & the dysseasoure maketh a dede of scoffemente whereof he enfeoffeith. B. L. & D. and the lyuere of seasyng is made to. B. & L. but. D. was nat at the lyuere of seasyng / nor neuer agreed to the scoffemente / nor neuer wolde take the profytes. &c. and after. B. & L. dye & D. ouer lyueth them / and the dysseasy byngethe hys wryt sur dysseasyng in the per agaynst the same shall sue all the matter / and howe that he neuer agreed to the scoffement / and so he shall dyscharge hym selfe of damages so that the demaundant shall recouer no damage agaynst hym though he be tennaunte of franke tencmete of the lade. And yet a statute of Glocestre wyl yf the dysseasy shall

Shall recouer damages on a wytte of entre grounded vppon the nouell dysseasynne agaynst hym that is founde tennant. And this is a p^{ro}se in y^e other case that in so muche as the yssue in the taylor cometh to y^e franke tenement and nat by hys dede nor by hys agreement that after the deth of hys father this is a remytter to hym in so muche that he can sue an accyon of forme don agaynst none other parson. &c.

E Also yf an abbot alyen the lande of hys house to an other in fee / and the alyene by his dede chargeth the lande with a rent charge in fee / and after the alyenee enfeoffe the abbote with the lycence to haue and to holde to the abbot and to his successours for euer and after the abbot dyeth / and an other is chosen and made abbot. In thys case the abbot that is the successoure / and hys couent be in theyr remytter / and shall holde the lande discharged by cause that y^e same abbot can nat haue any accyon of wytte of entre (Sine assensu capituli) of the same landes agaynst none other persone. In the same maner it is where a byshoppe or

Ca. xii.

Fauri
fiet de
re par-
def.

or a deane or other such persons alien
ec. without assente . ec. and after the
byshope takethe estate agayne of the
sayde lande by lycence to hym / and to
hys successours / and after the byshop
dyeth his successour is in his remyttter
as in ryght of hys church / and shall
defete the charge . ec. causa qua supra.

¶ Also yf a man sue a false accyon a-
gaynst ternaunte in the taylor / as yf a
man wyll sue agaynst hym in wryt of
entre in the poste / supposynge by hys
wrytte that the ternaunte in the taylor
had nat hys entre but by . A. of B. that
dysseasede the graunde father of the
demaundaunte / and that is false / and
he recouereth agaynst the ternaunt in
the taylor by defaute / and sueth execu-
cyon / and after the ternaunte in the taylor
dyeth / hys yssue may haue a wrytte of
formedon agaynst hym that recouered
¶ yf he wyll plede the recouere agaynst
the ternaunt in the taylor the yssue may
say that the sayde . A. of B. dysseasede
nat the graunde father of hym that re-
couered in the maner as hys wrytte
supposeth / and so he shall falsely his re-
couere

Remytter.




No. clxxxiii.

Ca. xii.

couere. And suppose y^e that was true
that the sayde. A. of. B. dyssleased the
graunde fader of y^e demaundaunt y^e reco-
uered/ & that after the dyssleasyn the de-
maundaunt oz his father oz his graunde
fader by a dede had released to to the te-
naunt in the taylor al the ryght that he
had in the lande. &c. and this nat with-
standyng he suethe hys wyrt of entre
in the poss agaynst the tenaunt in the
taylor in the maner as is aforesayde / &
the tenaunte in the taylor pleadeth to
hym that the sayde. A. of. B. dyssleased
nat hys graunde father as hys wyrtte
supposeth / and vppon thys they be at
ysue / and the ysue ys founde for the
demaundaunt wherby he hath iuge-
ment to recouer/ and sueth execution/
and after the tenaunte in the taylor dy-
eth / hys ysue maye haue a wyrtte of
formedon agaynst hym that recouered.
And yf he wyll pleade the recouere by
accyon tryed agaynst hys father te-
naunte in the taylor/ then he may shewe
and pleade the release made to hys fa-
ther / and so the accyon that was sued
was saynte in the lawe. &c. And it se-
meth

**Fautes
ra de re-
couer
par
saynte
plede.**

Ca. xii. meth that faynte accyon is as muche
to say in englyshe fayned accyon / that
is to say / suche accyon that though be
Faynt the wordes of hys wyrt be true yet for
accyon certayne causes he hath no cause nor
title by the lawe to recouer by y^e same
accyon. And false accyon is where the
False wordes of the wyrt be false / and in the
accyon. two cases beforseyde yf the cases wer
suche that after suche a recouere / and
execucion therof made the tennant in
the taylor hadde dysseasede hym that
recouered and therof dyed sealed wher
by the lande also dyscended vnto hys
yssue / this is a remitter vnto the yssue
and the issue is in by force of the taylor
and for that cause I haue put these
two cases beforseyde to enforce the
my sone that issue in the taylor by force
of a dyscent made vnto hym after a re-
couere / and execucion there of made
agaynst his aūcestre may be as wel in
his remitter as he sholde be by dyscent
made to hym after a dyscontynuaūce
made by his aūcestre of þ taylor lādes
by feoffemēt i y^e contrey or other wyse
Also i the same case asforseyde yf the
case

case wher such p̄ after that p̄ demaūdat
had iugement to recouer agaynste the
tenaunt in the taylor / and the same te-
naunt in the taylor dyed before any ex-
ecucion agaynste hym / where by the
tenementes descende to hys yssue and
he that recouered suche a (scite facias)
to haue execucion of the iugemente a-
gaynste the yssue in the taylor the yssue
shall plede the mater as before is sayd
and so shall proue that the recouere
was falsche or faynte in the lawe / and
so shall batte hym to haue execucion
of the iugement. &c. : : 

Ca. xli.

Also yf tenaunte in the taylor dys-
contynue the taylor and dye / and thys
yssue bryngeth a wytte of Formedon
agaynste the dyscontynuee beyng te-
naunt of the fre holde of the lande and
the dyscontynue pledeth that he is nat
tenaunt but otherwysse dysclaimeh fro
the tenauncy in the lande / in thys case
the iugement shalbe that the tenaunte
go without day / and after suche iuge-
ment the yssue in the taylor that is de-
maūdaunt may well entre in p̄c lāde
nat withstandynge the dyscontynue
aunce

Ca. xii.

dyscontinuaunce. And by suche entre
he shalbe adiuged in his remyttre / and
the cause is bpcause that if any mā sue
a (precipe quod reddat) against any te-
naunt of free holde / in whiche he accyon
the demaundaunte shall nat recouere
damages and the tenaunte pleadethe
nat none tenure / but otherwysc dys-
clamereth in the tenaunce / the demaun-
dant may nat auerre bys wrytte that
he is tenaunt as the wrytte supposethe
And for that cause the demaundaunte
after that that iugemēt is gyuen that
the tenaunt shall go without day may
entre in to the tenementes demaun-
ded / the whiche shall be as grete ad-
uantage to hym in the lawe as yf he
had iugement to recouer agaynst the
tenaunt. And by suche entre he ys in
his remyttre by force of the taylor / but
by wryt the demaundaunt recouereth
damages agaynst the tenaunt / the de-
maundaunt may auerre that he is te-
naunt as the wrytte supposethe / and
that for the aduantage of the demaun-
dant for to recouer bys damages / or
elles he shall nat receyue his damages
the

Kemptee.

To. clxxv.

the which damages be or were gyven
hym by the lawe. ¶ : * : *

Ca. xii.

¶ Also if a man be disseled and the dis-
sealoure byt his heyre being in by dys-
cent now the entre of the dysseal is
taken away. And if the dysseal byng
hys wytte of entre vppon dyssealure
in the pte/agaynst the heyre, and the
heyre disclaymeth in the tenauncy. &c.
the demandant may auerre his wite
that he is tenant as the wyte suppo-
seth if he wyl for to recouer his dama-
ges. But pte if he wyl leaue the auer-
ement. &c. he may lawfully entre into
the lande by cause of the disclamer, nat
withstandynge that his entre before
was taken awaye. And that was ad-
judged before my Maystie sy: Robert
Danby late cheefe Justyce of p^e com^o
place and hys companions. ¶ : *

¶ Also where the entre of a man is
lawfull though that he take estate to
hym / whan he is of full age for terme
of lyfe/or in taylor/or in fee/this is a re-
mitter to hym if such takynge of estate
be nat by dede endented or by matter
of reco:de that shal conclude or estope

Ca. l.



him





Ca. xiii

hym. For if a man be dyseased / and
therof taketh estate of the dyseasoure
withoute dede o: by dede pol / this is a
good remitter to the dyseasy. : * : *

¶ Also if a man let lande for terme of
lyfe to a nother whiche alpeneth to a
nother in fe / and the alpenour maketh
estate to the lessour / this is a remitter
to the lessour / bycause hys entre was
lawfull. : * : * : *

¶ Also if a man be dyseasyd / and the
dyseasoure letteth the lande to the dis
seasy by dede poll o: withoute dede for
terme of yeres / wherby the disseasy en
trecth / this entre is a remitter to the
dyseasye. For in suche case where the
entre of a man is lawfull / and a lease
is made to hym / though y^e he clayme
by wordes in the countrey that he hath
estate by force of suche lease / o: sayeth
openly that he claymeth no thynge in
the lande / but by force of such lease / yet
this is a remitter to hym / for suche
clayme in the countrey is nothynge to
purpose / but if he clayme in any court
of recorde that he hath estate but by
force of suche lease and nat otherwyse /
than

Remptter. **Jo. clxxxvi.**
than he is concluded. &c.  

Also if two Joyntenautes sealed
of certayne lande in fee (the one being
of full age / the other within age) be
dysseased / & the dysseasour dieth sealed
& his issue entrecly / the one of the iointe-
tenautes beyng than within age /
and after that he cometh to full age /
the heyre of the dysseasour let the land
to the same ioyntenaunt for terme of
theyre lyues / this is a remptter as to
the halfe to hym that was within age
bycause that he is sealed of that mo-
rtye that belongeth to hym in fee / by-
cause his entrec was lawfull. But the
other iointenaunte hath in the other
halfe but an estate for terme of his lyf
by force of the lease / bycause his entrec
was taken awaye. &c.    

Ca. xiii.

**Estops
pell.**

Warrantye. **Ca. xiii.**



It is commonly sayde that
there be.iii. maner of war-
rantyes / that is to say / war-
rantye lyncall / warrantye
collaterall / and warrantye
begynneth by dysseasyn. And it is

LI.ii.

to

Ca. xiii

A warranty
that be-
ginneeth
by dysse
assyne.

to wyl that before the statute of Glo-
cestre all warrantyes which discendid
to them whiche were heyres to theym
that made the warranty were barres
to the same heyres / to demaunde any
landes or tenementes agaynste those
warrantyes / excepte the warrantyes
that began by dyssealyn. **F**: for suche
warranty was neuer bar to the heire
by cause the warranty began by wroge
that is to say by dyssealyn. **F**: **N**: **D**
A warranty that beginneth by dysse-
alyns in suche forme. As where there is
father and son / and the son dothe pur-
chase lande . &c . and letteth the same
lande to his father for terme of yerres /
and the father by his dede therof en-
feoffeth another in fee & byndeth hym
and his heyres to warranty: if the fa-
ther dye wherby the warranty descen-
deth to his sone / this warranty shall
not barre the son / for nat withstanding
this warranty the son may well entre
in to the lade or haue an assyse against
the alienee if he wyl / by cause the war-
ranty began by dyssealyn. For whan y^e
father that had no estate but for tyme
of

warrantie. **¶** **Jo. c. lxxviii.**
of peres made a feoffement in fee/ this
was a disseisin to his son of the frake **Ca. xii.**
tenement that than was in the son. In
the same maner it is if the son let unto
the father the lande to holde at wyl/
and after the father maketh a feoffe-
mente with warrantie. &c. and as it is
sayde of the father/so may it be said of
every other auncestre. &c. **¶**

¶ In the same maner it is if tennaunt
by elegit/ tennaunt by statute marchaunt
or tennaunte by statute staple / make a
feoffemente in fee with warrantie. &c.
this shal nat barre the heyre y^e ought
to have the lande / bycause that suche
warranties beginne by disseisin.

¶ Also if wardeyne in Chyualere or
wardeyne in socage make a feoffement
in fee or in fee taylor or for terme of life
with warrantie. &c. suche warranties
be no barres to the heyres / to whome
the lande shall descende / bycause that
they begyn by disseisin.

¶ Also if the father and the sone pur-
chace certayne landes or tenementes to
have & to holde to the ioyntly. &c. & aft-
y^e father alieneth the hole to a nother

¶ **XX. iii.**

and

Ca. xiii.

and byndeth hym and his heires to
warrantye. &c. And after the father
dyeth this warrantye shall nat barre
the sonne of the moyte that belonged
to hym of the same tenementes / by-
cause that as to that Moyte (that be-
longed to the sonne) the Warranty be-
ganne by dyscasyu. : J : * : D

C Also if. A. of. B. be seased of a mese
and. J. B. that hath no ryght to entre
in to the same mese clayming to holde
the same mese to hym & to his heyres/
but. A. of. B. than is continually dwel
lynge in the same mese / in this case
the possessyon of the franke tenement
shalbe alway adiudged in. A. of. B. and
natm. J. of. B. by cause that in suche
case where two be in one mese / or in
other tenementes / & the one claymeth
by one tytle / and the other by a nother
tytle : the lawe shall adiudge hym in
possessyon that hath the ryghte to haue
the possessyon of the same tenemente.
But in the case aforesayde if. J. of. B.
make a feoffement to certayne bar-
retours & extorcioners in the countrey
for to haue mayntenaunce of them of
the





warrantye **fo. clxxxviii.**
 the same meſe by a dede of feoffement **Ca. xiii.**
 with warrantie/by force of which the
 ſayde. A. of. B. dare nat dwell in the
 ſame meſe/ but goth oute of the ſame
 meſe / this warrantye begynneth by
 dyſſeaſyn / by cauſe that ſuche a feoffe-
 mente was cauſe that the ſayde. A. of.
 B. forſoke the poſſeſſyon of the ſame
 meſe. ¶ And ye ſhall note that where **¶ Ma**
 one hauynge no ryght to entre in an o
 thers tenementes doth entre in to the
 ſayde tenementes / & incontinent ma-
 keth a feoffement to other perſones by
 hys dede with warrantye/ and deliuer
 to them ſeaſyn/ this warrantye begin-
 neth by diſſeaſyn: by cauſe that the di-
 ſſeaſyn and the feoffement were made
 as it were at one tyme. And that this
 is lawe/ ye may ſe in a plee. Anno. 31.
 E. iii. in a wrytte of Formedon in the
 reuerſiō. ¶ Warrantye lyncall is where
 a man ſeaſed of certeyne lande in fee **¶ War-**
 maketh feoffement by his dede to an o **ranty ly**
 ther / and byndeth hym and hys hey- **neall.**
 res to warrantye / and hath the yſſue &
 dyethe / and the warrantye deſcen-
 dethe to hys yſſue: this is a lyncall
LC. iii. Warrantye

Ca. xiii.

Warrantye. And the cause why this is a lyneall warrantye is nat bycause y^e the warrantye descendyth from the father to his heyre / but the cause is by cause that if no suche dede with warrantye had ben made by the father / than the ryght of the tenementes shulde descende to the heyre / & the heyre shulde conuey the discent from the father. &c. For if there be father and sonne / and the sonne purchase tenementes in fee / and the father dysseaseth the sonne thereof / and alpeneth it to a nother in fee by his dede / and by the same dede byndeth hym and his heyres to warrant the same tenementes. &c. & the father dieth / nowe is the sonne barred to haue the sayde tenementes / for he may by no sute nor by no other means haue the sayde tenementes : bycause of the sayde warrantye . And that is a collaterall warrantye / and yet the warrantye descendyd lyneally from the father to the sonne . But bycause that yf no suche dede with warrantye had be made / the sone in no maner myght conuey the tittle that he hath in the tenementes

**Collate
all war
rantye.**

warrantye. **No. c. lxxxix.**

tenementes frome hys father to hym /
in soo muche that hys father had no
estate / nor ryght in the tenementes /
therfore suche warrantye is called col-
laterall warrantye. In so moche that
he that made the warrantye is colla-
terall to the tytle of the tenementes /
and that is as moch to say that he (to
whom warrantye descēdēd) coulde nat
conuey the tytle that he had in the te-
nementes by him that made the war-
rantye / in case that no suche warra-
ntye had ben made.  :  :  : 

Ca. xiii.

¶ Also if there be graūdfather/father
and sonne / and the graunde father is
disseased/to whose possessiō the father
releaseth by his dede with warrantye.
et. and dyeth / and after the graunde-
father dyeth: nowe is the sonne barred
of the tenementes by the warrantye of
hys father / and thys is called lyneall
warrantye / bycause that if no suche
warrantye had bene made/the sonne
myght nat haue conueyed the ryghte
of the tenementes to hym / nor shewe
howe he is heyre to the graūdfather
but by the means of the father. et.

Ca. h.

Also

Ca. xiii.

E Also if a man haue yssue thre son-
nes/ and is diseased/ and yf elder sone
releaseth to the dyseasour by his dede
with warrantye. &c. & dyeth withoute
yssue/ and after the father dyeth: this
is a lyneall warrantye to the yonger
sonne/ bycause that though the elder
son died in the lyfe of the father/ yet by
possibyltye it myght be that he myght
conuey to hym the tittle of yf lande by
hys elder brother yf no suche warran-
ty had ben made. For it might be that
after the deathe of the father the elder
brother entred in to the tene mentes/ &
dyed withoute issue/ & than the yonger
son shal conuey to hym the tittle by his
elder brother. But in this case yf the
yonger son release with warrantye to
the dyseasour & dyeth withoute yssue:
this is a collateral warrantye to the
eldest son/ bycause that of suche lande
as was to the father/ the elder brother
by no possibyltye myghte conuey to
hym the tittle by meane of the yonger
brother. ¶

E Also if the tenant in the taylor haue
yssue

warrantye. clxxx.

¶ If the sonnes and dyscontinue the
tyle in fee / & the mydle son releaseth
by his dede to the dyscontinue / & bin-
deth hym & his heires to warrantye. &c.
and after the tenaūt in the tyle dieth
and the mydle dyeth withoute issue
nowe is the elder sone barred to haue
any recouere by a writ of Formedon /
bycause that the warrantye of the my-
dle brother is collaterall to hym / in so
much that he may by no maner con-
ueye to hym by force of the tyle any
dyscent by the mydle brother / & there-
fore it is a collaterall warrantye. But
in this case if the elder brother die w-
oute issue / nowe the yonger brother
maye well haue a Formedon in the dis-
cendre and recouere the same lande / bi-
cause that the warrantye of the mydle
brother is lineall to the yonger bro-
ther / bycause it may be that by possi-
blyte the mydle brother myght haue
ben seised by force of the tyle after the
deth of his elder brother / & than myght
the yonger brother conuey his tyle
of dyscent by the mydle brother. &c.

¶ Also if tenaūt in p^r tyle dyscontinue
the


Ca. xlii.

Ca. xiii.

the taylor and hath yssue/ and dye/ and the uncle of the issue release to the discontinuance with warranty and die without issue: this is a collateral warranty to the issue in the taylor / because that the warranty descendeth vpon the issue whiche can nat convey hym selfe to the taile by meane of his uncle

C Also if the tennant in p^c taylor haue issue two daughters and dye / and the elder daughter entreath in to the hole/ and thereof maketh a feoffement in fee with warranty/ and after the elder daughter dyeth without issue: in this case the yonger daughter is barred as to the moite / & as to the other moite she is nat barred/ for as to the Moite that belongeth to the yonger daughter she is barred / because that as to the moite that belongeth to her selfe/ she cannot convey the discret by the meane of her elder syster. And therefore as to that Moite / that is a collateral warranty/ but as to the other moite whiche belonged to her elder syster by the same elder syster the warranty is no barre to the yonger syster / because that

warrantye. Fo. clxxxvi.

that the maye conuape her dyscent as
to that moite that belonged to her el-
der syster by the same elder syster. And
so as to that moite that belonged to
the elder syster/ the warrantye as to y^e
is lyneall to the yonger syster. &c.: 

Ca. xiii



And note well that as to hym that
demaundet the fee symple by any of his
auncestres / he shall be barred by a ly-
neall warrantye whiche descendeth
vpon hym / except it be restrayned by
some statute: yet he that demaundet the
fee taylor by a wyrt of forme don in the
descendz shall nat be barred by a lyne-
all warrantye / except he haue ynoughe
by dyscent in fee symple by the same
auncestre that made the warrantye.
But a collaterall warrantye is a bar to
hym that demaundeth fee / and also to
hym that demaundeth fee taylor with-
oute any other discent of fee symple /
excepte in cases that be restrayned by
the statutes & other cases for certayne
causes / as shalbe sayde hereafter.

Maxi-
me.

Also if lande be gyuen to a man / and
to his heyzes of his body begotten the
whiche taketh a wyfe and haue issue a
sonne

Ca. xiii.

sonne byt wene them/ & the husbunde
dyscontinuethe the taylor in fee/ and dy-
eth/ and after the wyfe releaseth to
the dyscontinuance in fee with warran-
tye and dyeth/ and the warrantye des-
cendeth to the sonne: this is a collate-
rall warranty/ but if tenementes be gi-
uen to the husbunde and the wyfe and
to the heyres of theyr two bodyes be-
gotten/ whiche haue issue a sonne/ and
and the husbunde dyscontinuethe the
taylor and dieth/ and after the wyfe re-
leaseth with warranty and dieth/ this
warrantye is but a lyneall warrantie
to the sone / for the sonne shall nat be
barred in this case to sue his wyttie of
formedone / excepte he haue inoughe
by dyscent in fe symple by his mother
bycause that theyr issue in a wyttie of
formedon oughte to conuey to hym
the right as heyre to his father and to
his mother of their two bodics begot-
ten by forme of the gyfte. And so in
suche case the warrantie of the father
& the warrantye of the mother be but
as lyneal warrantyes to the heyre. &c.
And note wel & in every case where
a man demaundeth tenementes in fee

220
warrantye. **So. clxxviii.**
taylor by a wyfite of Formedon/ if any
of the yssue in the taylor that had pos-
session or that had no possessyō make
a warrantye. &c. if be that such the
wyfite of Formedon myght by any pos-
syblyte (by matter that mighte be in-
dede couney to hym the taylor by hym
that made the warranty by the forme
of the gyfte. This is a lyncal war-
rantye and nat collateral. :  : * : 

Ca. xiii

Maxis
me.

Also if a man haue issue thre sones/
and he gyue the lande to the eldest sone
to haue and to holde to hym & to the
heires of his bodye begotten / and for
defaute of suche yssue / the remayndre
to the myddle sone / to hym and to the
heires of his bodye begotten / and for
defaute of suche yssue the remayndre
to the yongest sone and to his heires
of his bodye begotten: in this case
yf the eldest sone dyscontinne the
taylor in fee / and bynde hym and his
heires to warrantye and dye without
issue this is a collateral warranty to
myddle sone / and he shalbe barred to
demaunde the same lande by force of
the remayndre / because that the re-
mayndre is his tyle / and his eldest
brother





Ca. xlii.

brother is collateral to y^e tytlic which
beginneth by force of the remaind^re.

¶ In the same maner it is if the my-
dle son had the same lande by force of
the remaind^re/by cause that his eldest
brother made no dyscontinuaunce but
died withoute issue of his bodye / and
after the mydle sonne maketh a dysco-
ntinuaunce with warrantye. &c. and di-
eth withoute yssue / this is a collate-
rall warrantye to the pongeste sonne/
and also in this case if any of the sayde
sonnes be dysseased/and the father(y^e
made the gyfte) relese to the diseasoure
all his ryght. &c. with warrantye / this
is a collaterall warrantye to that sonne
upon whome the warrantye descended
causa qua sup^a. &c. ¶ And so note well
that whete a man that is collateral to
the tytlic. &c. releaseth with warrantye
that is a collaterall warrantye. ¶

¶ Also if the father gyue lande to his
eldest sonne to haue and to holde to him
and the heyres males of his body be-
gotten / the remaind^re to the seconde
sonne. &c. if the eldest brother alyen in
fee with warrantye. &c. and hath issue

female

warrantye. **To. clxxxiii.**
female and dyeth withoute issue male
thys is nat a collateral warrantye to **Ca. xiii.**
the seconde son, nor shall nat hurt him
of hys accyon by Formedon in the re-
mayndre by cause that the warrantye
descendeth to the daughter of y^e eldest
sonne and nat to the seconde son. For
every warrantye that descendeth/des-
cendeth to him that is heire unto him
whiche made the warranty by the co-
mon lawe. &c. :  :  :  : 

Also yf lande be gyuen to a manne
and to hys heires males of hys body
begotten / & for defaulte of suche yssue
the remayndre therof to hys heires fe-
males of his body begotten / and after
the donee in the taylor maketh a feoffe-
ment in fe with warranty accordyng
and hath yssue a sone and a doughter /
and dyeth this warranty is but a line-
al warranty to the sone to demaunde
by writ of Formedon in the descendre
And it is but senecall to the doughter
to demaunde the same lande by writ of
Formedon in y^e remayndre, if her bro-
ther dye withoute heire male / by cause
that the claymeth as heire female of
the

Ca. xii.

of the body of her father begotte. But in this case of her brother in his life release to the dyscontinue . &c. with warrantye . &c. and after dye withoute issue / this is a collateral warrantye to the daughter / because that she cannot conuey to her the right that she hath by force of the remaindre by any meane of dyscende by her brother / and therefore the brother is collateral to the title of his sister / and therefore his warrantye is collateral. &c. ¶ :

¶ Also I haue herde saye that in the tyme of kynge Rycharde the seconde there was a Justyce in the comon place dwellinge in Keute callede Rykhyll that had issue diuers sonnes . And his entent was that his eldest sone Gulde haue certayne landes to hym / and the heyres of his body begotten / and for defaute of issue the remaindre to his seconde sonne . &c. and so to the thyrde sonne . &c. and because that he wolde that none of his sonnes Gulde aspen or make warrantye for to barre or to hurte the other that Gulde be in the remaindre . &c. he caused to be made an

endementur

Warrantye. fo. cxxxiii.
indenture to suche effecte / y^e is to say **La. xii.**
that yf landes and tenementes wher
gyuen to the eldeste sonne vpon thys
condycyon / that yf the eldeste sonne
alpenyd in fe: or in fee taylor. &c. or any
of hys sonnes alpened: &c. that than
theyre estate shulde cease and shulde be
voyde / and that than the sayde landes
or tenementes immediatly shulde re-
mayne to the seconde sonne and to the
heires of his body begottch / and that
vpon the same condycyon. **S.** that yf
the seconde sonne alpen. &c. that than
hys estate shulde cease / and that than
the same landes and tenementes shulde
remanne to the thyrde sonne / and to
the heires of hys body begotten / and
so forth the remayndre to other of hys
sonnes and lyuere of season was made
accordynge. But yt semethe by rea-
son that all suche remayndres in the
forme before sayde be voyde / and of
no value / and that for. iii. causes. One
cause is because that every remayn-
dre that beginneth by a deade / yt be-
houeth that the remayndre be in hym
to whom the remayndre is taylor by
DD. ii. **force**

Ca. xiii.

Force of the same dede whan the luer
of seasin is made to him that hath the
frank tenement. And such remayndre
was nat at the seconde sonne at the
tyme of lyuere of seasin in the case be-
foresayde. &c. The seconde cause is yf
the fyfthe sonne alen the tenementes
in fe/ than is the franke tenement and
the fee symple in the alenee/ and in
none other/ and if the donour had any
reuercyon by suche alienacyon/ the re-
uercyon is discontinued/ than though
that by some reason it maye be that
suche remayndre shall begyne hys be-
yng and hys growynge immediat-
ly after suche alenacyon made too a
straunger that bathe by the same alie-
nacyon franke tenement and fee sym-
ple/ and also if suche remayndre shulde
be good/ than myghte he entre vppon
the alenee where he had no maner of
tyght before the alenacyon/ whiche
shulde be inconueniente. The thyrde
cause is whan the condycyon is suche
that yf the eldest sonne alen. &c. that
hys estate shall cease/ or shalbe boyde.

&c.

warraunte. Fo. clxxxv.
ec. than after such alienacion. &c. may Ca. xlii.
the donour entre by force of suche con-
dicion. &c. as it seme: b/ and so the do-
nour or his heyres in suche case ought
more sone to haue the lande than the
seconde sone that had no ryght before
suche alienacyon. &c. and so it semeth
that suche remaindres in the case be-
fore sayde be voyde. &c.

✱ : ✱ : ✱

¶ Also at the comenlawe before the
statute of Glocestre yf tennant by the
curtesy had alpened in fe with warra-
nty accordat/ after his decease this was
a barre to the heyre. &c. as it appereth
by the wordes of y^e same statute. But
it is remedied by the same statute y^e
the warraunte of the tennante by the
curtesy shalbe no barre to the heyre ex-
cept he haue ynoughe by dyscent by
the tennant by the curtesy / for before
the sayde statute that was a collate-
rall warranty to the heyre bycause he
coude nat conuey any title of dyscent to
the tennantes by the tennant by the cur-
tesy/ but onely by his mother or other
of hys auntestres. &c. and that is the

DD. iii.

cause

Ca. xlii.

cause why it was collaterall warrantie. But yf a man enbryte and take a wyfe which haue issue a sone bytweene theym / and the father dyeth / add the sonne entrethe in the lande / and endowe hys mother / and after hys mother alpenethe that that she hath in her dower to an other in fe with warranty accordynge / and after dyeth / and the warranty descendeth to the sonne / nowe the sonne shalbe barred to demaunde the same lande / bycause of the sayde warranty / bycause that suche collaterall warranty of tenaunt in dower is nat remedied by any statute. The same lawe is where tenaunt for terme of lyfe maketh an alpenacye on with warranty. &c. and dyeth / and the warranty descendeth to hym / hadde the reuercyon or the remaindre. &c. they shalbe barred by such warranty. &c.

¶ Also in the sayde case yf it so were that whan the tenaunt in dower alpenethe. &c. the heyre was within age / & also at that tyme that the warranty

desc

Warrantye. Jo. clxxxvi.
descendyd vpon hym he was within
age in thys case the heyre maye after Ca. xiii
entre vpon the aluenee nat withstan-
dyng the warranty descendyd, &c. by
cause that no laches shalbe aduindged
in the heire within age that he entred
nat vpon the aluenee in the lyfe of the
tenaunte in dower / but yf the heyre
was within age at the tyme of the a-
lyenacyon / and after he came to full
age in the lyfe of tenaunte in dower /
and so beynge of full age he entred nat
in the lyfe of tenaunte in dower. / & af-
ter the tenaunt in dower dyeth / there
peradventure the heyre shalbe barred
by suche warranty / bycause it shalbe
accompted bys soly that he beynge of
full age entryd nat in the lyfe of te-
naunte in dower. ¶: * : * : ¶:

¶ Also it is spoken in p^e ende of the
sayde statute of Glocestre that spe-
keth of the alueneacyon with warra-
ntye made by the tenaunte by the cur-
tesy in suche forme. ¶: * : * : ¶:

¶ Also in the same maner the heire of
the woman after the deth of p^e father
& mother shal nat be barred of accepon

DD. iii.

pf be

Ca. xlii. yf he demaunde the herptage oꝝ the
 maryage of hys mother by a wyꝝt of
 entre that hys father alpened in the
 tyme of his mother wherof no tyme is
 leuyed in the kynges courte. &c. And so
 by force of the same statute yf the hus-
 bande of the wyfe alpen the herptage
 oꝝ marraꝝe of his wyfe in fe with wat-
 ranty. &c. by hys dede in the countrey/
 this is clere lawe that thys warrant
 shall nat barre the heyre excepte he
 haue ynough by dyscent. &c. But the
 doubte is yf that the husbände alpen
 the herptage of hys wyfe by tyme leui-
 ed in the kynges courte with warrant
 &c. if this shall barre the heyre with-
 out any dyscent in value. &c. And as to
 that I wyl say here certayne reasons
 that I haue herde say in this matter.
 I herde my mayster say: Rycharde
 Newton late chyefe iustyce of the co-
 mon place say ones in the same place
 that suche warrantye that the baron
 maketh by tyme leuyed in the kynges
 courte shall barre the heyre though
 that he haue nothyng by dyscent / by
 cause the statute sayth whetof no tyme

warrantye. *fo. clxxxvii.*
is leuyed in the kinges court. *cc.* And *Ca. xii.*
so by hys oppinion this warranty by
fyne. *cc.* abydech yet a collaterall war-
rantye as it was at the comon law nat
remedyed by the sayde statute / by cause
that the sayde estatute excepteth the
penacions by fyne with warrantye.
And some other haue sayde and yet say
the contrary / and this is theyr profe-
that as by the same chapitre of the
sayde estatute / it is ordeyned that the
warrantye of the ternaunte by the cur-
tesy shall nat barre the heyre / excepte
he haue ynough by dyscet. *cc.* though
that the ternaunte by the curtesy leui a
fyne of the same landes with war-
rantye. *cc.* as strongly as he can yet this
warranty shall nat barre the heyre ex-
cepte he haue affect or ynough by dys-
cet. *cc.* And I beleue þ this is a lawe
And therefore they say that it shulde be
inconuenient to vnderstande the sta-
tute in suche forme that a man that
hath nat but in the ryght of hys wyfe
may by fyne leuyed by hym selfe of the
tenementes that he hath but in the
ryght of hys wyfe with warranty. *cc.*

DD. v.

shall

Ca. xiii.


Shall barre the heyre of the sayde tene-
mentes without dyscent of fee simple
ec. where ternaunte by the curtesy can
nat do it. But they have sayde that y^e
statute shall be vnderstande after the
forme/ that is to say where the statute
speketh/ wherof no fyne is leued in y^e
kynge's courte/ this is to say where no
lawful fyne is ryghtfully leued in the
same kynge's courte/ and that is wher
of no fyne of the husbande & hys wyfe
is leued in the kynge's courte / for at
the tyme of the makynge of the sayde
statute/ cuery estate of landes or tene-
mentes that any man or woman had
that shulde discede to hys heyre was
fee simple without condicyon or vpon
condicyon in dede or in lawe. And by
cause that suche fine than myght law-
fully haue ben leued by the husbande
and hys wyfe/ and than the husbande
and hys wyfe/ & the heyres of the hus-
bande warrante. ec. suche warrante
shulde barre the heyre. ec.

¶ And so they saye that thys is the
vnderstandynge of the sayde statute/

warrantye. **To. clxxxviii/**
 for yf the husbände & the wyfe made a **Ca. xlii.**
 scoffement in fe by dede in the countrey
 the heyre after the deccase of the hus-
 bande and the wyfe shall haue a wyte
 of entre (sur cui in vita. &c. natwithsta-
 ndyng the warrantye of the husbände
 Than yf no such exception was made
 in the statute of the fyne leuyed. &c.
 than the heyre shulde haue the wyte
 of entre. &c. natwithstandyng the fyne
 leuyed by the husbände/ and the wyfe/
 bycause that the wordes of the statute
 before the excepcion of the fyne leuyed
 &c. be generall. &c. that is to say that
 the heyre of the woman after the dech
 of the husbände and the wyfe shall nat
 be barred of accyon / yf he demaunde
 the herpage or the maryage of hys
 mother by a wyte of entre that hys fa-
 ther alpyened in p^e tyme of his mother
 And so it shulde be in the case of p^e sta-
 tute except suche wordes were/ that is
 to say wherof no fyne is leuyed in the
 kynges court. And so they saye that
 this is to vnderstande/ wherof no fyne
 by p^e husbände & the wyfe is leuyed in
 kynges

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Ca. xiii.

kynges courte the whiche is lawfully
leuyed in such case. For yf the iustices
haue knowlege that a man that hath
nothyng but in the ryght of his wife
wyl leuy a fine in hys name only they
wyl nat : nor ought nat to take suche
fyne to be leuyed by the husbanc only
without namynge the wyfe / therfore
enquyre of this matter. : 

¶ Also it is to wyt y^e in suche wordes
where the heyre demaundeth the heri
tage or maryage of hys mother / thys
worde is a dysiunctyue / & is as muche
to say yf the heyre demaunde the heri
tage of hys mother that is to be vnder
stande the tenementes that hys mother
had in fee simple by dyscent or by pur
chase / or yf the heyre demaunde the
maryage of hys mother / that is to say
the tenementes that were giuen vnto
hys mother in franke maryage.

¶ Also where it is moued in druers
dedes thes wordes in latyn. (Ego et
heredes mei. &c. (Warrantia habimus et
imperpetuum defendemus) it is to se
what effecte hath that worde (defen
demus) in suche dedes. And it semyth
that

¶ The
effecte
of thys
worde
(defen

warrantye. No. clxxxix.

that it hath nat to effecte of warrantye
nor comprehendeth any cause of warrantye
for yf it shulde be so that it taketh
effecte or cause of warrantye/ than it
shulde be put in some fynes le-
uyed in the kynges courte. And a man
neuer sawe that these wordes defende-
mus/ was in any fyne but al only this
worde (warrantizabimus) by which it
semit that this verbe (warrantiso)
maketh warrantye & is the cause of war-
rantise & none other worde in our lawe.

¶ Also yf tenaunt in the taylor be sea-
led of tenementes deuyfable by testa-
ment after the custome. &c. and the te-
naunte in the taylor aliyeneth the tene-
mentes to hys brother in fee/ and hath
ysue and dyeth/ and after hys brother
deuyfeth by hys testament the same te-
nementes to an other in fee and byn-
deth hym and hys heires to warrant-
ye. &c. and dyeth without ysue/ it se-
meth that this warrantye shall nat
barre the ysue in the taylor yf he wyll
sue hys wyf of forme done / bycause
that this warrantye descendeth nat to
the ysue in the taylor in so much as yf

uncle

Ca. xiii.

(20000

2000 A 11

war
rantye
shall en-
sue de
course
of the
comen
lawe.

uncle of the yssue was nat bounde by
force of the same warrantye in hys life
And therof that he coude nat war-
rante the lande in his lyfe in so muche
that the deuse coude nat take any ex-
ecution or effecte but after his deccase
and in so muche that the uncle in hys
lyfe was nat holde to warrantye suche
warrantye/ne may nat defende from
hym to the yssue in the taile. &c. for no
thyng may descende fro the auncestry
to his heire but the same that was in
the auncestre. Also a warrantye maye
nat go without the nature of teneme-
tes by custome / but onely after forme
of the comen lawe. For yf tenant in
taile be sealed in tenementes in bo-
rough englyshe / where the custome
is that all tenementes of the same bo-
rough ought to descende to the yon-
geste sonne and he dyscontinuethe the
taile with warrantye. &c. and hath the
yssue. n. sonnes and dyeth sealed of o-
ther landes & tenementes in the same
borough in fee simple to the balac
and more of the tenementes tyled. &c.
yet the yongeste sonne shall have a for-

aland

medon

warrantye. Fo. xx.

medon of the tenementes tyled / and
shall nat be barred by the warrantye La. xiii.
of hys father though ynough to hym
descended in fee symple fro the same fa
ther after the custome / for thys that
the warrantye descendeth vpon the el
der brother that is in full lye. &c. and
nat vpon the yonger sonne. In the
same manner it is of collaterall war
rantye made of suche tenementes
where the warrantye descenderhe to
the elder sonne. &c. thys shal nat barre
the yonger soue. &c. In the same ma
ner it is of tenementes in the hyze of
kente whiche be called Gauekyude /
the whiche tenementes be departable
amonge the brethrene. &c. after the
custome. &c. pf any suche warrantye be
made by theyr auncestres / suche war
rantye descenderhe all onely to the
heyr that is heyr by the comon
lawe and nat to al the heyras
whiche be heyras of suche
tenementes after
the custome
&c.

Also pf a tenant in tyle haue yllue

two

Ca. xiii.

two daughters by dyuers ventres / & dyeth and the daughters entre and a straunger dysseaseth them of the same tenementes, and one of the daughters releaseth by her dede to the dysseasour all her ryght and bindeth her and her heyres to warrantysle and dyeth without yssue / in this case the systr that suryucth may wel entre and put out the dysseasour of all the tenementes / for this that such warrantysle is no discōtynuaunce nor colaterall warrantysle to the systr that suryucthe for thys that they be of halfe blode / and y^e one may nat be heyre to y^e other after the comō lawe. But otherwysle it is wher there be daughters of tenaunte in the taylor by one ventere. ¶ : * : *

¶ Also p^rtenaunte in the taylor let tenementes to an other for terme of lyfe the remayndre to an other in fee / and the colaterall auncestre cōfirmeth the estate of the tenaunte for terme of lyfe and byndeth hym : and hys heyres to warrantysle for terme of lyfe of the tenaunt for terme of lyfe and dyeth / and the tenaunte in the taylor hath yssue & dyeth /

dyeth / nowe thys pſſue is barred to
 aſke the tenementes by wyte of forme.
 don durynge the lyfe of the tennaunt for
 terme of lyfe / bycauſe of the collateral
 byſcende vppon the pſſue in the taylor.
 But after the deceaſe of the tennaunt
 for terme of lyfe / the pſſue ſhall haue a
 forme don. &c. And vpon thys I haue
 herde a reaſon that this caſe ſhal proue
 by an other caſe / that is to ſay / if a mā
 let his lande to an other / to haue and
 to holde vnto hym and to hys heyres
 for terme of an others lyfe and the leſſe
 ſour dyeth hyr ynge hym to whole lyfe
 &c. and a ſtraunger entreteth in the land
 that the heyre of the leſſee maye put
 him out / for this that in the caſe nexte
 afoſayde / in ſo muche that a man may
 bynde him and his heyres to warrant
 to the tennaunt for terme of lyfe all on-
 ly durynge the lyfe of the tennaunt for
 terme of lyfe / and that warrantye deſ-
 cendeth to the heyre of hym that made
 the warrantye / the whiche warrant-
 ye is no warrantye of inheritaunce
 but all onely for terme of an others
 yfe / by the ſame reaſon where tene-

Ca. xii. mentes be let to a man to haue and to holde to hym and to hys heires / for terme of an others lyfe / yf the father dye luyng he to whose lyfe his heire shall haue the tenementes lyuinge hym to whose lyfe. &c. for they haue sayde that yf a man graunt an annuyte to another to haue and to take to hym and to hys heires for terme of an others lyfe / yf the grauntee dye. &c. that after hys heire shall haue the annuyte duringe the lyfe of hym / to whose lyfe.

**En-
quyre.**

&c. (Quere de ista materia)

C But where suche lease or graunt is made to a mā or hys heires for terme of yeres / in thys case the heire of the lesse and the grauntee shall neuer haue after the deeth of the lesse or the grauntee that that is so letten or graunted / for thys that it is chattell real / and all chatels reals by the comon lawe shall come to the executors of the grauntee or of the lessee and nat to the heire. &c.

**Warr
ranty
collate-
rall**

C Also in some cases it maye be that howe be it that a collaterall warrantye be made in fee. &c. yett suche warrantye maye be defeted and annuyntyd

Warrantye. Jo. C. l.

entyd. As the ternaunte in the taylor
dyscontynue the taylor in fee / and the
dyscontynue is dysseased and the bro-
ther of the ternaunte in the taylor relea-
seth by hys dede to the dysseasoure all
his ryght. &c. with warrantye in fee /
and dyeth without yssue / and the te-
naunte in the taylor hath yssue / and
dyeth/nowe the yssue is barred of hys
accyon by force of the collaterall war-
rantyes descendynge vppon hym / but
yf after thys the dyscontynuee entre
vppon the dysseasoure / than maye the
heire in the taylor haue hys accyon of
formedon. &c. for thys that the war-
rant is appentyd and defeted. ¶ For
whan the warrantye is made vnto a
man vppon any estate that than he
hade / yf the estate be defeted the war-
rantye is defeted. ¶ : x : * : ¶ :

¶ In the same maner it is yf the dys-
contynuee make a feoffement in fe re-
seruyng to hym certayne rent / & for de-
faute of payment a reetre. &c. & a colla-
terall auncestre releaseth to the feoffee
that hath estate vpon condycyon. &c. &
dyeth without yssue / though that the

CE. ii.

ware

Ca. xiii.

anyent
and
defete.

Ca. xlii.

Warrantye descende vpon the yssue in the taylor / yet yf after the rente be beynde and the dyscontynue entrethe into the lande. &c. than the yssue in the taylor shal haue his recouere by a writ of Formedon / for thys that that warranty collateral is defeted. And so yf any such collateral warranty be pleaded agaynst the yssue in the taylor in his accyon of formedon he may shewe the matter as it is a fore sayde / howe the warranty is defeted / & so he may well maynteyne hys accyon.

¶ Also yf tenaunt in the taylor make a scoffement to hys vncler / and after hys vncler maketh a scoffement in fee with warranty. &c. to an other / and after the scoffer of the vncler enscoffeth agayne the vncler in fee / and after the vncler enscoffeth a straunger in fee without warranty / and dyeth without yssue / and the tenaunt in the taylor wyl bryuge hys writ of Formedon agaynst the straunger that was in the scoffement. &c. by the vncler / in thys case the yssue shal neuer be barred by the warranty that was made by the vncler to the

warrantye. Fo. Cii.
the sayde fyrst feoffee of hys vncle / for
thys that the sayde warrantye was Ca. xiii.
defetyd & anpented / for thys that the
vncle toke agayne to hym as grete
estate of his sayde fyrst feoffe to whom
the warrantye was made as the same
feoffe had of hym. And the cause why
the warrantye is anpentyd / in thys
case is thys / that is to saye that yf the
warrantye were in his force / than the
Vncle shall warrant vnto hym sefe /
that may nat be / but yf the feoffe made
estate to the vncle for terme of lyfe or
in fe taylor / sayng the reuercyon vnto
him. &c. or that he make a gyfte in the
taylor to the vncle or a lease for terme
of life / the remayndre ouer. &c. In this
the warrantye is nat all vterly anp-
entyd / but it is put in suspence durynge
the estate that the vncle had / for after
thys that the vncle is dedde without
ysue / than he in the reuercyon or he in
the remayndre shall barre the ysue in
the taylor of his wyght of for medon by
the collaterall warrantye in such case
&c. But otherwys it is where the vncle
had as great estate in the lande by

EE. iii.

the

Ca. ciii.

the feoffe to whome the warrantye was made as the feoffe had of hym. &c.

¶ Also yf the vncle after suche feoffe met made with warrantye or release made by hym with warrantye be attaynte of felony or outlawed of felony. Suche collateral warranty shal nat bar nor greue the yssue i the taylor for thys that by the attendre of felony y^e blode is corrupte bytwene them. &c.

¶ Also yf tennant in the taylor be dysseased / and after maketh a release to the dysseasour with warrantye in fe / and after the tennante in the taylor is attaynte or outlawed of felony / and hath yssue and dyeth / in thys case the yssue in the taylor may entre vpon the dysseasour. ¶ : * : * : * : * :

¶ And the cause is for thys that no thyng maketh dyscontynuaunce in thys case but the warranty / and the warranty maye nat descende to the yssue in the taylor for this that y^e blode is corrupte bytwene hym that made the warranty / and the yssue in the taylor. For the warrantye alway abydeth at the comon lawe / & the comon lawe

Warrantye. fo. l.iii.

lawe is suche that whan a man is out
lawed oꝝ attaynte of felony / whiche Ca. xiii.
outlawry is an attayndre in the lawe
that the blode bytwene hym and hys
sonne and all other whiche holde be
sayde hys heires is corrupte / so that
nothyng by dyscent may descende to
any that may be hys heire by the co-
mon lawe. And the wyfe of suche a mā
that is so attaynte shall neuer be en-
dowed in the tenementes of her hus-
bande so attaynte. ¶:✱:✱:✱:

¶ And the cause is bycause mē shulde
more eschewe to do felony. &c. But the
ysue in the taylor as to the tenemen-
tes taylor is nat in suche case barred
bycause he is enherited by force of the
statute and nat by the course of the co-
mon lawe. And therfore suche attayn-
dre of his father oꝝ of hys auncestre in
the taylor. &c. shall nat put hym out of
hys ryght that he shulde have by force
of the taylor. &c. ¶:✱:✱:✱:

¶:✱:✱:✱:

¶ Also yf ternaunt in the taylor enfeoffe
his uncle / whiche enfeoffeth an other
with warrantye. &c. yf after the taylor by

EE.iii.

hys

E. R. F. I. I.

his dede release to the vncle all maner
of warrantye / or all maner of couenaun-
tes reals / or all maner of demandes
by suche release the warrantye is ex-
tyncte. And yf the warrantye in suche
case be pleded agaynst the heyre in the
tyle & byngyth hys wyrt of forme-
don to barre the heyre of hys accyon /
yf the heyre haue and pleade the sayde
release. &c. he shall defete the ple in bar
&c. And many other cases and matters
be there / whereby a man maye defete
warrantyes. ¶ : * : * : * :

¶ And it is to to wpyt that in the same
maner as colaterall warranty may be
defetyd by matter in dede oꝝ in lawe /
in the same maner may lyneall warra
ntye be defetyd . &c. For yf the heyre in
the taylor brynge a wpyt of Formedon /
oꝝ a lyneall warranty of hys auncestre
inheritable by force of the taylor be ple
ded agaynst hym with that that assets
to hym descended of fee symple by the
same auncestre that made the war
rantye yf the heyre that is Demaun
daunte may adnull and defete the war
rantye / thys suffeseth to hym for the
dyscuss

warrantye. To. C. lili.
Byscence of other tenementes of fee
symple makethe nothyng to
barre the heyre with
out of the war-
rantye.

Ec.

¶:*:~

¶ 3 3 3 3 3.

~*~

Here begynneth the ta-
ble of thys present
boke.

¶

Nowe haue I made for the my
sonne. iii. boke.

The fyrste is of estate that me haue
of landes or tenementes/that is to say.

Tenaunt in fee symple.

Tenaunt in fee taylor.

Tenaunt in the taylor after possibyltye
of yllue extyncte.

Tenaunt by the curtesy of Englande

Tenaunt in dower.

Tenaunt for terme of lyfe.

Tenaunt for terme of yeres.

EE. v.

Tenaunt

The table.
Tenaunt at wyll by the common lawe.
Tenaunte at wyll by the custome of
the maner.

The seconde boke.



The seconde boke is of
Homage/

Fealte/
Escuage/
Knyghtes seruyce/
Hocage/
Franke almogne oz fre almes/
Homage auncestrell/
Graunt sergeaunty/
Dettye sergeaunty/
Tenure in burgage/
Tenure in byllenage.

Of.iii. maners of rentes,
that is to say/

Rent seruyce/
Rent charge/
and Rent secke.

¶ And these two small bokes haue I
made for the for to vnderstande better
certaine chapytres of the aunycnte
boke of tenures.

The table,
The thyzde boke.



**The thyzde boke is of
Parceners.**

Of Joyntenauntes.

Tenauntes in comon.

**Estates of landes or tenementes by or
condycion.**

Dyscentes that take away entres.

Contynuall clayme.

Belesses.

Confirmacions.

Attournementes.

Remytters of garrantyes.

that is to say/

garrantie lyncall.

garrantie collateral /

**and garrantie that begynneth by
dysseasyn.**

**I And knowe thou my soune that I
wyl nat that thou byleue that al that
that I haue sayde in y^e sayde boke be
lawe/for that wyl I nat take byd me
nor presume. But of those thynges
that be nat lawe enqyre and lerne of
my wyse maysters lerned in the lawe.**

Pat

The table.

**That withstandinge though that cer-
taine thynges that be noted and spe-
cified in the sayde booke be nat lawe
yet suche thynges shall make the more
apte and able to vnderstande and lerne
the argumētes and the reasons of the
lawe. For by the argumentes and the
reasons in the lawe a man maye
more soner come to the cer-
taine/ and to the know-
lege of the lawe.**

¶

**plus laudatur quando
ratione pro-
batur.**

**Imprynted at London
in Fleetestrete / by me Robert
Redman dwellinge at the
sygne of the George
nexte to Saynt
Dunstones
churche
Cum Priuilegio,**

✠



Bar.
13/1.